



# Appeal Decision

Site visit made on 29 May 2024

**by A Knight BA PG Dip MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 August 2024**

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**Appeal Ref: APP/J1915/W/23/3325473**

**21A Knight Street, Sawbridgeworth CM21 9AT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs P Passfield against the decision of East Hertfordshire District Council.
  - The application Ref is 3/22/2159/FUL.
  - The development proposed is the conversion of a garage/outbuilding to one 1 bedroom detached two-storey dwelling, alterations to fenestration and openings, the addition of new windows and installation of air source heat pump and photovoltaic roof panels.
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## Decision

1. The appeal is allowed and planning permission is granted for the conversion of a garage/outbuilding to one 1 bedroom detached two-storey dwelling, alterations to fenestration and openings, the addition of new windows and installation of air source heat pump and photovoltaic roof panels at 21A Knight Street, Sawbridgeworth CM21 9AT in accordance with the terms of the application, Ref 3/22/2159/FUL and the plans submitted with it, subject to the conditions in the attached schedule.

## Main Issues

2. The main issues are the effect of the proposal on:
  - the character and appearance of the area, including the Sawbridgeworth Conservation Area (the CA);
  - the living conditions of the occupiers of 33 The Forebury (No 33), 21 Knight Street (No 21) and The Coach House, with particular regard to privacy; and,
  - the living conditions of future occupiers of the proposed development, with particular regard to outlook and natural light.

## Reasons

### *Character and appearance*

3. The appeal site is within the CA. The statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
4. The CA boundaries encompass the medieval core of Sawbridgeworth, concentrated on the historic streets and spaces that converge at The Square. The special interest of the CA lies within its combination of historic buildings,

many of which are listed, its street pattern, and its townscape, which have evolved over many centuries. The character and appearance of the CA as a whole is contributed to positively by the rich variety of vernacular buildings, legibility of historic plot layouts, open spaces, trees and watercourses.

5. The appeal site comprises a relatively narrow, long plot that extends away from The Forebury, behind properties on Knight Street. The CA boundary runs alongside the appeal site and excludes the north side of The Forebury beyond it. The prevailing development pattern on Knight Street is defined by a fairly regular building line, with dwellings set forward in the plot. The plot rhythm and development pattern along The Forebury is less well defined and indicative of the mid-20<sup>th</sup> century expansion to the town that is identified within The Sawbridgeworth Conservation Area Appraisal (2014) (CA Appraisal).
6. The appeal site entrance is opposite a substantial and prominent flat-roofed school building, running parallel to the pavement, cited within the CA Appraisal as having a negative effect on the character of the CA. The corner plot between The Forebury and Knight Street, and adjacent to the appeal site entrance, is occupied by a relatively modern dwelling. On the opposite side of the appeal site's access, and outside of the CA boundary is an electricity substation enclosed by utilitarian metal security fencing forward of No 33.
7. Therefore, while the appeal site lies within the CA boundaries, it is located where the built form, street form and legibility of historic plot layouts has been subject to change in the 20<sup>th</sup> century. The character and appearance of the area today is defined by an unfussy, municipal feel entirely distinct from the historic charm of Knight Street. Therefore, apart from being indicative of the town's evolution in the 20<sup>th</sup> century, the appeal site itself contributes little to the significance and special interest of the CA as a whole.
8. At the far end of the appeal site is a detached, pitched roof building used as a domestic garage, store, and office. The extant structure is set well back from the highway which, along with the modest height and unassuming character, gives it a discreet presence. Though it is of little architectural interest, within the wider context of a library, a local hall, and car parking it is not harmfully out of place in the context of 20<sup>th</sup> century form and functional use and character. Therefore, the existing garage makes a neutral contribution to the character and appearance of the CA as a whole.
9. The appeal proposal would extend the garage building by some five metres, with the further addition of an entrance porch beyond that. The main body of the extension would incorporate external timber cladding on the elevations, but otherwise form a seamless continuation of the existing building in terms of external materials, height, shape and form.
10. In combination with the continuity of shape and form, the proposed south elevation would feature 'crittal' style fenestration and good quality materials that would not replicate but respect more traditional buildings in the CA and retain a modest, unassuming character. Therefore, while the plot width would be comparatively narrow, the proposed dwelling would not be harmfully out of place or uncharacteristic in the context of the residential uses found elsewhere in the locality.
11. The distance between the building and the road would remain significant, and the extended part of the building would be largely obscured from view by No

33, and new boundary fencing. Overall, I do not consider the proposal to result in an incongruous addition to the area. Rather, the proposal would ensure the proposed dwelling would maintain a discreet presence as viewed from the street, be of an appropriate scale, density, and good quality design, and would preserve the character and appearance of the CA as a whole.

12. Overall, the proposed development would respect and not cause harm to the character and appearance of the area or the CA. It follows that there would be no conflict with the statutory presumption under Section 72 of the Act.
13. The proposal also accords with Policies HOU2, DES4 and HA4 of the East Herts District Plan (2018) (the District Plan). Amongst other things, these policies seek to ensure new development and extensions to existing buildings in Conservation Areas will be permitted provided they preserve or enhance the special interest, character and appearance of the area; requires housing development make efficient use of land informed by the character of the local area; and make the best use of the available land by respecting the character of the site and surrounding area.
14. Whilst not cited in the Council reason for refusal, I have been provided with District Plan Policy HA1. For the same reasons set out above, the proposal would accord with this policy, which seeks to ensure development proposals preserve and where appropriate enhance the historic environment. As I have not found any harm in respect of the CA as a designated heritage asset, there would be no conflict with the and the historic environment protection policies of the National Planning Policy Framework (the Framework).

#### *Privacy*

15. The proposal incorporates five new windows at ground floor level, each utilising obscure glazing, along with the retention of two existing rooflights facing towards No 33.
16. The ground floor windows would partly protrude above the current boundary fencing, and be visible to occupiers of No 33, No 21 and The Coach House. The use of obscure glazing in the ground floor windows, as proposed, would prevent any overlooking of neighbouring properties and no harm would be caused in that regard, therefore.
17. I recognise that there may be some perception of overlooking related to the ground floor windows, particularly when both the windows and the residential use of the appeal building are new. In the first instance, the perception of being overlooked would be mitigated by the partial concealment of the windows behind fencing. Thereafter, casual examination by occupiers of neighbouring homes would confirm the windows to be obscure glazed, easing any sense of being overlooked.
18. For these reasons, and as there would be no actual overlooking from the ground floor windows, I consider that any perception of overlooking would abate over time and at no point cause harm to the living conditions of occupiers of No 33, No 21 and The Coach House. The proposals are acceptable in that respect, therefore.
19. The existing upper floor rooflights serve a comfortable office/storage space, which has the potential for regular use. The rooflights are top-hung, and whether opened or not, allow overlooking of the house and garden at No 33.

20. The appeal proposal involves using the upper floor of the appeal property as a bedroom, which would significantly increase the likelihood and frequency of overlooking. Rendering the rooflights obscure-glazed and non-opening would prohibit overlooking and constitute an improvement on the current arrangement. Subject to the imposition of suitably worded conditions, the proposed development would not lead to a harmful loss of privacy over and above the existing situation.
21. For the above reasons, I conclude that the proposals would not have a harmful effect on living conditions for occupiers of No 33, No 21, and The Coach House, with particular regard to privacy. Accordingly, I find no conflict with Policy DES4 of the District Plan, which requires development to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and ensure that their environments are not harmed by inadequate privacy, and no conflict with the similar aims of the Framework.

#### *Outlook and light*

22. The proposed dwelling would incorporate a predominantly glazed, south-facing façade leading out onto a private garden. Occupiers of the main living areas would have a pleasant outlook towards the garden which, as a result of the large, glazed openings, would be constantly visible. This would create a sense of connection between house and garden, enhanced further by the use of bifold doors between the two spaces.
23. The south elevation would incorporate substantial first floor windows, level with the bedroom. The bedroom would be separated from these windows by an atrium, and then a section of internal glazing; It is not proposed that this be obscure-glazed or fixed shut, only that it incorporate privacy blinds.
24. This arrangement would provide a pleasant outlook from the bedroom, affording a raised view of the double-height living area and vaulted ceiling within the property, as well as a view over the garden, and across treetops towards the local church spire.
25. The quality of southward vistas would be sufficiently high that views from the existing first-floor rooflights are not required for the bedroom to have acceptable levels of outlook, overall. To my mind the proposed development could be made acceptable if conditions were imposed that ensured these rooflights were obscure-glazed, and fixed shut to the degree necessary, in the interests of privacy, therefore.
26. The extent of glazing in the south elevation, combined with the southward orientation of the building, would result in significant natural light to the main living areas of the proposed dwelling during the day. The separation distance between the appeal site and the homes at 21a and 23 Knight Street is such that the proposed dwelling would enjoy evening sunlight to a significant degree as well.
27. The parts of the dwelling furthest from the south-facing glazing would receive less natural light from that source but would be served by new ground floor windows which would provide adequate natural light to those areas. The ground floor windows do not provide a view, but this is acceptable given they serve either bathrooms and storage areas or, in the case of the furthest part of the

kitchen dining area, a space well-served in terms of outlook by the main glazing onto the garden.

28. As described above, the rooflights in the upper floor facilitate some overlooking of No 33 which would likely increase in frequency as a result of the proposed development. However, if the proposed rooflights were obscure-glazed and fixed shut as necessary, which could be controlled by suitably worded conditions, I am satisfied that there would be no harmful loss of privacy for the occupiers of No 33. Otherwise, the rooflights would assist in providing natural light to the bedroom, in combination with the internal and south-facing glazing.
29. For the above reasons, I conclude that the proposals would provide acceptable living conditions for future occupants of the proposed dwelling. Accordingly, I find no conflict with Policy DES4 of the District Plan, which requires development to incorporate high standards of design, and no conflict with the similar aims of the Framework.

### **Other Matters**

30. I acknowledge concerns raised in response to the planning application as to the accuracy of the site boundary shown on the submitted plans. Disputes over land ownership are a private matter and have not formed part of my assessment. My determination is based on the plans that were before the Council and upon which it based its decision.

### **Conditions**

31. The Council has suggested a number of conditions in the event that I am minded to allow the appeal. Notwithstanding the appellants have not raised any issue with the Council's conditions, I have considered them against the tests under paragraph 56 of the Framework, and the Planning Practice Guidance. In some instances, while I have adopted the suggested conditions, I have made changes to wording to add clarity as appropriate.
32. Conditions setting out the commencement of the development and the list of approved plans are required in the interests of providing planning certainty and clarity. Given the locational circumstances of the appeal site and proximity to neighbouring occupiers, a condition requiring a Construction Method Statement is necessary; I have sought agreement to the wording and imposition of this pre-commencement condition.
33. In the interests of the character and appearance of the area, conditions requiring further details of external materials, as well as a scheme of hard and soft landscaping are necessary, proportionate to the scale of development.
34. To ensure adequate privacy to nearby occupiers and future occupiers, conditions to control the opacity and opening of certain windows, and to required details of external lighting are reasonable and necessary. Furthermore, I consider it reasonable and necessary to control permitted development rights to restrict insertion of any new windows or other openings without permission. There is no compelling evidence to indicate a particular issue with noise in the locality that would unacceptably harm the living conditions of future occupiers and so it would not be reasonable to impose a noise assessment condition. However, I do consider that a condition requiring a scheme to control noise emitting from the Air Source Heat Pumps would be necessary ensure potential harmful noise and disturbance would be suitably mitigated.

35. As conditions should not be used to control matters that are subject to other primary legislation, I do not consider it would be reasonable or necessary to impose conditions requiring minimum standards for gas fired boilers. As details of soft landscaping would be incorporated with a scheme of landscaping condition, the proposal includes an ASHP, and the design and materials are controlled by the approved plans, I do not consider it would be reasonable to impose a condition requiring further details to control heating or green infrastructure.

36. In the interests of biodiversity, I have included a condition requiring details of bird boxes and their installation. While a condition requiring details of Electric Vehicle charging points and water saving measures are reasonable in the interests of reducing carbon emissions and minimising the use of mains water. In the interests of protecting human health and the environment, it is necessary to impose a condition to monitor and control unexpected land contamination.

### **Conclusion**

37. For the reasons given above the appeal should be allowed.

*A Knight*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: FGF BLOCK01, FGF EX01, FGF EX02, FGF PR02, FGF SITE01 REV B, FGF PR01 REV.
3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority.

The Statement shall provide for:

- i. loading and unloading of plant and materials;
- ii. storage of plant and materials used in constructing the development;
- iii. wheel washing facilities;
- iv. measures to control the emission of dust and dirt during construction;
- v. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- vi. delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4. The development hereby permitted shall not be occupied until the ground floor level rear and side elevation windows and the rooflights at first floor level have been fitted with obscured glazing and fixed shut, in accordance with details of obscured glazing that shall first have been submitted to and approved in writing by the Local Planning Authority. No part of those windows or rooflights shall be capable of being opened, or the obscured glazing removed.
5. Prior to the installation of any Air Source Heat Pump (ASHP) on the development hereby permitted, a scheme shall first have been submitted to and approved in writing by the Local Planning Authority that provides details of the noise radiating levels and ensures appropriate mitigation to the most affected habitable rooms in a way which will minimise transmission of structure-borne sound to the proposed development and neighbouring properties. Prior to use, the ASHP shall be enclosed with sound-insulating material and mounted in accordance with the approved details, and retained thereafter.
6. No construction above ground level of the development hereby approved shall take place until details of any external lighting have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
7. No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

8. No development shall commence until a scheme of both hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of: all existing trees and hedgerows on and overhanging the land, identifying those to be retained and set out measures for their protection throughout the course of development; all proposed new trees and shrubs. all means of enclosure including boundary fencing and entrance; hard surfacing materials. The development shall be carried out in accordance with the approved scheme.
9. All new trees and shrubs comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling hereby approved or the completion of the development, whichever is the sooner; and any trees or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or other openings other than those expressly authorised by this permission shall be inserted into the external fabric of the building hereby approved.
11. No development above ground level shall take place until details of water saving measures and equipment have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
12. Notwithstanding the approved plans, no construction above ground level of the development hereby approved shall take place until details of the Electric Vehicle (EV) charging point, to include its location, shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the provision has been made for the EV charging point in accordance with the approved details, which shall be retained, or appropriately upgraded, thereafter.
13. Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

\*\*\*End of Schedule\*\*\*





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## Appeal Decision

Site visit made on 10 September 2024

**By Terrence Kemmann-Lane JP DipTP FRTPI MCMi**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 September 2024**

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### **Appeal Ref: APP/J1915/D/24/3341805**

### **16 Pishiobury Drive, Sawbridgeworth, CM21 0AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr James Parker against the decision of East Hertford District Council.
  - The application Reference is 3/23/0542/HH.
  - The development proposed is the installation of an Air Source Heat Pump and additional solar PV panels.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the installation of an Air Source Heat Pump and additional solar PV panels at 16 Pishiobury Drive, Sawbridgeworth, CM21 0AE, in accordance with the terms of the application, Ref. 3/23/0542/HH, subject to the conditions set out in the schedule at the end of this decision.

### **Main Issue**

2. The main issue in this case is the effect of the noise from the proposed air source heat pump (ASHP) on the amenity of the living conditions of the neighbours at 18 Pishiobury Drive.

### **Reasons**

3. The appeal property is a two storey detached dwelling located in a predominantly residential area of Sawbridgeworth. It is also located within the setting of the Grade II Registered Park and Garden (RP&G) of Pishiobury Park, the Grade II listed The Lodge, the Gate Piers next to No. 1 Pishiobury Drive (Grade II listed), and The Straw Hat Restaurant (near the junction with Chaseways), also Grade II listed. The council considers that the proposed development would result in a neutral impact to the setting of the Historic Garden and listed buildings, and a heritage statement is not considered necessary. I agree with that assessment.
4. There is considerable background to the appeal proposal that has been provided to me. I have noted it, but my decision will rest on the relevant policies and material considerations. Therefore I will not rehearse these matters here. The appeal proposal seeks permission for the installation of an air source

heat pump (ASHP) and additional solar PV panels at the rear elevation. The solar PV panels are not the subject of a refusal reason.

5. The ASHP would be on the rear elevation of the house and a fixed (cedar wood) barrier next to the ASHP is proposed to attenuate the sound. The proposed ASHP model would be either Daikin (3H HT EPRA018DW). or Samsung (EHS Mono HT AE120BXYDEG), both in a dark colour.
6. The development plan policies that are most relevant to this appeal are Policy EQ2 and Policy DES4 of the East Herts District Plan adopted in October 2018. The pertinent text of policy EQ2 'Noise Pollution' is

*"I. Development should be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment. Particular consideration should be given to the proximity of noise sensitive uses, and in particular, the potential impact of development on human health.*

*II. Applications should be supported by a Noise Assessment in line with the Council's Noise Assessment Planning Guidance Document.*

*III. Noise sensitive development should be located away from existing noise generating sources or programmed developments where possible to prevent prejudicing the continued existing operations. The use of design, layout, landscaping tools and construction methods should be employed to reduce the impact of surrounding noise sources."*

7. With regard to item II of Policy EQ2, the council's Noise Assessment Planning Guidance Document referred to appears not to have been published. The decision notice included the statement that "The proposed Air Source Heat Pump is predicted to exceed the East Herts District Council's noise criteria (25dB<sup>1</sup>) for residential area in this part of Sawbridgeworth". There appears to be no derivation or justification for the figure of 25dB, but I am told that there is a 'working policy' adopted by officers which requires that noise from ASHPs at the most affected assessment point should be 5dB or more below background noise level. The council has confirmed in writing the existence of the working policy. It has further advised that neither the policy itself, nor the rationale behind it, is published and that the policy has not been subject to public scrutiny or to scrutiny by elected members<sup>2</sup>.
8. Taking account of paragraph 48 of the National Planning Policy Framework (NPPF), which deals with the weight to be given to emerging plans that have been published, since this 'working policy' and the considerations behind it are not published, it must carry less weight than a newly emerging local plan. Furthermore, this 'guidance document' will be subject to regular change and the council's position may shift as discussions and the guidance document develops (see appellant's Appendix 6 of the grounds of appeal). For these reasons I can only give it very limited weight.
9. The relevant parts of Policy DES4 'Design of Development' are I (c) and (d). These require:

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<sup>1</sup> All dB figures are A weighted.

<sup>2</sup> See Appendix 6 of the appellant's Grounds of Appeal.

*"(c) Avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land, and ensure that their environments are not harmed by noise and disturbance or by inadequate daylight, privacy or overshadowing;*

*(d) Incorporate high quality innovative design, new technologies and construction techniques, including zero or low carbon energy and water efficient, design and sustainable construction methods. Proposals for residential and commercial development should seek to make appropriate provision for high speed broadband connectivity, ensuring that Fibre to the Premises (FTTP) is provided;"*

This policy does not provide any guidance as to how its aims are to be achieved or constraints on the new technologies, etc.

10. However, the council's Environmental Health team have measured the background noise level at night in Pishiobury Drive (30dB) and subsequently agreed that a full noise assessment would not be required for the application, but rather an absolute value of 25dB should be met. In other words, the noise level of the proposed ASHP at the nearest sensitive location should not be more than 25dB. The council's position is that noise from the proposed ASHP as proposed on application drawing ref. JP2402, even after the installation of the fixed barrier, is expected to exceed the background noise level (30dB) by approximately 3dB at the nearest noise sensitive receptor, and exceeding EHDC criteria by 8dB. As such, it is said that the proposed ASHP by reason of the noise level would result in a detriment to neighbour amenity of No.18.
11. This does not sit well with an earlier response from Environmental Health, quoted in the appellant's appeal statement, referring to the same ASHP models. In an email dated 31 January 2023 from Environmental Health to the planning officer it was stated: "The short version is that their unit would not meet our planning condition, however due to the absolute level of the unit, the noise may not be considered likely to cause a nuisance/disturbance. My standpoint is that they should be allowed to go with either of the units as it meets the MCS020 standard, and in worst case conditions should not impact our goals of protecting amenity and preventing a nuisance. I know that this is an issue due to the decision notice already being given." This statement of opinion by Environmental Health was given after the noise level in the vicinity had been measured.
12. The appellant notes that the policy of requiring 5dB below background, a relative measure, is in contrast to the recognised national standards which express requirements as an absolute figure. Before looking at national and other similar matters, such as permitted development rights, I should note that the appellant's appeal statement is lengthy and contains a considerable amount of technical material. Since that material is known to both parties, it would not be appropriate to set it out in detail. I will therefore deal with it relatively briefly.
13. The following is an outline of the appellant's case in respect of national standards:
  - British Standard BS8233 sets desirable noise levels for the interior of domestic buildings. The 'sleeping level' between 23:00 to 07:00 is the most severe

constraint at 30 dB LAeq,8hr. Applying the 15dB correction, as set out in BS 8233, for the attenuating effect of the fabric of the subject building (with windows in vent position<sup>3</sup>), this results in a predicted interior level of 18dB, taking account of the MCS calculation 33dB at 1m in front of the window (see bullet point 3). This is 12dB below, and thus well within, the 'desirable' level for night time sleeping of 30dB (33dB at 1m from the subject window, minus 15 for fabric attenuation within the room equals 18, 12 below 30dB).

- Permitted development of ASHPs in the General Permitted Development Order 2015 (as amended), Schedule 2, Part 14, Class G, (d), development is not permitted (as relevant to the appeal proposal) if: i) it does not comply with MCS Planning (or equivalent) standards – see 3<sup>rd</sup> bullet point below; ii) the volume of the ASHP's outdoor compressor would exceed 0.6 cubic metres. No other item in G.2 or in the conditions in G.3 would exempt the appeal ASHPs from being installed; the proposed ASHPs would not be excluded due to noise constraints, only due to its volume exceeding 0.6m<sup>3</sup>.
- The proposed ASHPs comply with the Microgeneration Certification Scheme Planning Standards (MCS-020). The MCS-020 allows an air source heat pump to be approximately 37dB at 1m from the centre of the nearest habitable room window in any given location. It should be noted that i) there is no stipulation with respect to areas with low background noise levels; and ii) the table on drawing No.JP2402 shows the sound level of the ASHP at its rated maximum of 60dB, with a distance from assessment position of 6m giving a reduction for distance of -17dB, and a solid barrier reduction, shows a sound level at the assessment position of 33dB<sup>4</sup>. These Sound Pressure Calculations, in accordance with MCS020 and created using MCS calculation tool Box 6 give <=37dB(A) which equals a pass for permitted development.

## Conclusions

14. Beginning with the local plan policies set out in paragraphs 6 and 9 above, policy EQ2 has 3 elements; I consider that these are met. The ASHP has been sited with regard to proximity of noise sensitive uses, a fixed sound 'barrier' has been incorporated, there is unlikely to be any cumulative impact and the proposal has been supported by a Noise Assessment in the form of the appellant's documentation. The third element of the policy is not relevant since it relates to the location of noise sensitive development.
15. The second element of the policy requires the Noise Assessment to be in line with the council's Noise Assessment Planning Guidance Document. There appears to be no such published document. The only thing that has been identified as serving the purpose of this Guidance Document is an 'officer working document'. This appears to be in the minds of officers since no written version is available, but it is said to be something that is evolving and may change. It cannot be considered as serving the purpose of the Guidance Document having the primacy of a development plan policy, and to the extent

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<sup>3</sup> It is during the coldest times of the year that ASHPs will be at their noisiest, that is at their specified sound power.

<sup>4</sup> This figure appear is arithmetically wrong on drawing No.JP2402 from the figures included. This is because on the 5<sup>th</sup> line, where it shows 'Barrier (no view) there should be a reduction of 10dB to account for the 'cedar barrier'. This 10dB reduction is shown at step 5 on page 21 of the Microgeneration Installation Standard: MCS 020, and if included in the table produces 33dB.

- that it carries some weight, this is outweighed by the assessment of noise that is put forward in a tangible form.
16. Turning to the data that has been presented, the 2 alternative ASHPs put forward by the appellant have specified sound powers that do not exceed 60dB. Beginning with British Standard BS8233, the calculations shown at the first bullet point of paragraph 13 predicts an interior level of 18dB within the nearest noise sensitive location. This is 12dB below, and thus well within, the 'desirable' level for night time sleeping.
  17. The Microgeneration Certification Scheme Planning Standards (MCS-020) allows an air source heat pump to be approximately 37dB at 1m from the centre of the nearest habitable room window in any given location, without any stipulation with respect to areas with low background noise levels. The table provided shows a source sound level of 60dB, at 6m from the assessment position provides a reduction for distance of -17dB, and a reduction for the cedar barrier of -10dB which provides a sound level at the assessment position of 33dB; at less than 37dB, this amounts to a pass.
  18. I have left the matter of permitted development to last as it is said by the appellant to be a fallback position that is less favourable than the appeal proposal.
  19. The ASHPs considered for the appeal application were restricted to those with a Quietmark certification. Quieter ASHPs, such as those with the Quietmark certification, must accommodate extra sound insulation and/or a larger fan and thus may tend to be physically larger than louder models and, as in this case, thereby exceeding the maximum physical dimensions required for permitted development. There is, however, no technical requirement to limit the design choice to units with a Quietmark certification, and there are units on the market which meet both the criteria for permitted development and the technical requirements of the installation.
  20. The appellant cites one such unit as the Mitsubishi Ecodan PUZ-WM-112-VAA. He also asserts that there are several other manufacturers who also make suitable units which, appropriately sited within the curtilage, would meet the requirements of the permitted development rules. For fallback to be a material consideration, there must be a 'real' prospect that the alternative development would take place, but it does not have to be probable or likely, a possibility will suffice.
  21. I have no reason to doubt the intention of the appellant to reduce the contribution to climate change by decarbonising his heating, noting that the uncontroversial part of the planning application is additional solar PV panels. I therefore consider that the fallback position is a real prospect, in the event of a dismissal of the appeal, that an ASHP that would comply with the permitted development requirements would be installed. Under permitted development rights this could result in a noise level up to 4dB higher.
  22. I have taken account of all other matters raised, but in the light of the factors that I have set out above, the proposed ASHPs comply with Policies EQ2 and DES4, when judged against tangible figures that are published. Therefore the appeal will be allowed.

## Conditions

23. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested 3 conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance. The proposed conditions are that materials match the existing, that the development be carried out in accordance with the approved plans, and that the Air Source Heat Pump and the associated solid cedar wood screen shall comply with the specification of the 2 ASHPs detailed within the Design Statement (version 202401) and drawing ref. JP2402 and shall be retained in this form thereafter.
24. The first of these is not appropriate since the ASHP will not match the existing materials of the house. But compliance with the plans is necessary for certainty and avoidance of doubt as to the development permitted, and I will impose it.
25. The third condition is objected to by the appellant on the basis that the condition would restrict the choice of heat pump to a subset of those set out in the planning application, and also seeks to impose the additional requirement that the development 'shall be retained in this form thereafter'. His point is that it is certain that, when the unit reaches the end of its natural life (perhaps in 15 years' time) the restricted range of models specified by the council will no longer be available. It is likely that this necessary replacement will be a 'distress purchase', ie. would follow a failure of the unit during the heating season, necessitating urgent action, incompatible with the requirement to seek planning consent. The effect of this condition is thus to frustrate the future replacement of the sole space heating system for the house, in the most likely failure scenario. Such a restriction is both unreasonable and unnecessary
26. The appellant has suggested an alternative condition: 'The Air Source Heat Pump and the associated solid cedar wood screen hereby approved shall comply with the specification model Daikin (3H HT EPRA018DW) or Samsung (EHS Mono HT AE120BXYDEG) or another heat pump meeting the specified conditions, as detailed in the Design Statement (version 202401) and drawing ref. JP2402 received 7th February 2024. The specified conditions referred to are:
- That the pump is QuietMark and MCS certified (or equivalent at the time of any subsequent replacement);
  - That its dimensions are no greater than 1018 (H) x1270 (W) x533 (H) mm
  - That its specified sound power does not exceed 60dB(A)
27. I am satisfied that the first part of the appellants' suggested condition would achieve the council's aim, whilst allowing the appellant to choose from the current available ASHP at the time of carrying out the development, bearing in mind the time that has elapsed since the planning application was made and that there are continuing model changes. I will adopt this part of the suggested condition which is necessary to ensure the protection of the neighbour's amenity.
28. The second part of the suggested condition appears to be responding to any replacement pump at the 'end of life' point of the installed pump. I do not find this part of the appellant's suggestion satisfactory because it is reasonable to anticipate that, at this date (which might be in 15 years' time or so), that ASHP design will have moved on and the desired performance is likely to be more

stringent that can currently be specified. At the same time, I can understand that a replacement at the time when the pump breaks down will likely be a matter of urgency.

29. I therefore intend to impose a condition that will require any future replacement pump to meet one of the following: be approved in writing by the Local Planning Authority; or meet the requirements of any permitted development right current at the time; or that the pump is QuietMark and MCS certified (or equivalent at the time of the replacement); and that in any event it shall have dimensions not greater than 1018 (H) x1270 (W) x533 (H) mm and its specified sound power does not exceed 60dB(A). This condition is also necessary to ensure the protection of the neighbour's amenity.

*Terrence Kemmann-Lane*

INSPECTOR

#### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans.
- 3) The Air Source Heat Pump hereby approved shall comply with the specification of the model Daikin (3H HT EPRA018DW) or Samsung (EHS Mono HT AE120BXYDEG) or another heat pump meeting the specified conditions, as detailed in the Design Statement (version 202401) and drawings ref. JP2402 received 7th February 2024.
- 4) The Air Source Heat Pump hereby approved shall not be replaced at any time other than with a pump which meets one of the following: be approved in writing by the Local Planning Authority; or meets the requirements of the provisions of permitted development [the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification)], current at the time; or that the pump is QuietMark and MCS certified (or equivalent at the time of the replacement); and that in any event it shall have dimensions not greater than 1018 (H) x1270 (W) x533 (H) mm and its specified sound power does not exceed 60dB(A).

End of Schedule

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# Appeal Decision

Site visit made on 19 August 2024

**by Alison Scott (BA Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 9 September 2024**

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**Appeal Ref: APP/J1915/W/23/3329066**

**Hunsdon House Lodge, Church Lane, Hunsdon, Hertfordshire SG12 8PP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by W and J Developments Limited against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/0641/FUL dated 29 March 2023 was refused by notice dated 7 July 2023.
  - The development proposed is Conversion of existing residential games room annex into a dwelling, alterations to fenestration and addition of an open sided porch.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. As the site affects works within the setting of statutorily listed buildings, I am therefore mindful of my statutory duties in respect of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act (the Act).

## Main Issues

3. The main issues are:

- The effect of the development on the setting of the listed assets of the Grade II listed Hunsdon House Lodge, and the Grade II listed Parish Church of St Dunstan, and the Grade I listed Hunsdon House;
- The effect of the development upon the character and appearance of the local area; and
- The suitability of the site as a location for residential development.

## Reasons

### *Effect on heritage assets*

4. The appeal proposal affects the detached annex building associated with Hunsdon House Lodge which is in residential use and Grade II listed. However, there are no works proposed to Hunsdon House Lodge. The annex is a modern building of the 21<sup>st</sup> Century and was originally built as an indoor



swimming pool and was later converted into a games room for the occupants of the Lodge and sits within the grounds of the Lodge within very close quarters. This proposal seeks to convert the annex building and a small porch extension and exterior alterations to facilitate its use as an independent C3 residential use.

5. With regards to the listed assets of Hunsdon House Lodge, (List entry number 1176041, listed 19 September 1984) its significance and special interest from my observations, is derived from its age and architectural quality. It is a former gate lodge to Hunsdon House built in the mid-19<sup>th</sup> Century to a Gothic style. It is one and a half storeys built from red and black brick, with tiled roof and bracketed eaves over. It has an elaborate quality to its design, asymmetrical front with three elaborately bracketed two-light cusped lucarne windows, each with tiled gable roof with moulded and pierced barge boards projected on brackets. The large timber porch is also gabled with elaborate carved and mulded bargeboard and bracketed uprights. Windows include single-light cusped windows with Venetian-Gothic gauged arches over, picked out in black. The listing description describes it as a 'striking early 19<sup>th</sup> Century polychrome Gothic lodge'.
6. In addition, the site is close to the listed asset of the Grade I listed Parish Church of St Dunstan (List entry number 1101973, listed 24 January 1967). Its significance and special interest, as far as I can tell, derives from its historic and architectural interest. The church dates from the early 14<sup>th</sup> Century with later alterations made to its fabric. It is built from flint rubble with stone dressings and red tiled roof. The north and south chapel and east part of chancel are built in brick. Reset early 14<sup>th</sup> Century window in north chapel, four-bay original 15<sup>th</sup> Century nave roof, single framed of scissor braced rafters, collars and ashlar pieces.
7. The church is also group listed as an asset with the Grade I listed Hunsdon House (List entry number 1347687, listed 4 December 1951). Its significance and special interest arise from its historic interest and architectural execution. It was originally built as a brick, tower country house in the 15<sup>th</sup> Century with moat. It encompasses wide proportions, three storeys with large pointed diagonal buttresses at each corner and built to a castellated form, with later service wing added. The main block has two parallel hipped slate roofs concealed behind an embattled parapet, 19<sup>th</sup> Century windows have plaster surrounds and two-light or three-light moulded wooden mullioned and transomed windows. Its high Grade I listing status is thus awarded due to its fragmentary remains of one of the most important medieval houses in the county and forms a picturesque historic group with the parish church.
8. The National Planning Policy Framework (the Framework) defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced. The Framework explains that its extent is not fixed and may change as the asset and its surroundings evolve.
9. Although there are garages between the Lodge and the annex building as well as timber fencing, and despite the splayed angle of the Lodge and annex to one another, given its close relationship with Hunsdon House Lodge, it displays the characteristics of being physically and functionally

associated with the Lodge. It is clearly visually experienced within its setting. I consider the annex has had some degree of compromising effect upon the significance of the listed asset of the Lodge.

10. By changing its use to C3 dwellinghouse would significantly change its character, as well as its appearance due to the requirements to domesticate its external appearance. It would become a separate entity away from its close association with the dwelling of the Lodge, within its own separate curtilage. It would no longer have a subservience to it. The annex is closely connected to the main dwelling and is unlikely to have generated vehicles specifically associated with this annex building. Vehicles exclusively associated with this proposed change of use and other independent domestic paraphernalia linked to the living operations of a dwelling would arise, especially as it would be a three bed C3 dwelling.
11. The domestic effects associated with residential living, or a localised containment of them to avoid sprawl, cannot be reasonably controlled through the planning system, and can lead to a sense of 'clutter' to this sensitive location. The existing garages and timber boundary fencing would not act to mitigate the effects of the proposal.
12. In addition, the annex and its grounds would be severed from the Lodge. As a whole, the Lodge is experienced within a large landscaped setting that adds positively to how the asset is experienced, despite the modern buildings and timber boundary treatment. To divide this off would significantly erode the visual relationship between the asset and this wider landscape context.
13. I am therefore of the view that a change of use to a C3 dwelling in this location would not preserve the special interest of the heritage asset.
14. With regards to the effect of the proposal upon the setting of the listed assets of the Parish Church of St Dunstan and the setting of Hunsdon House, given the intervening woodland and separation distance, which is some way from the church, I am not of the view that the proposal would lead to harm arising to the setting of these heritage assets. Therefore, I consider it would preserve the special interest of these heritage assets.

#### *Public benefits*

15. Paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the conservation of designated heritage asset's (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 206 goes on to say that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
16. With reference to Paragraphs 205 and 206 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the type and scale of the proposed development,

and the degree to which it impacts on the setting of the designated heritage asset, I find the category of harm in this instance to be 'less than substantial'. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the asset's optimum viable use.

17. The Planning Practice Guidance entitled Historic Environment, advises that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the Framework. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit.
18. The public benefits advanced by the appellant include one electric charging point, and the building would be converted to a sustainable level to meet Building Control regulations. In terms of these public benefits, very limited information on these measures is before and I can therefore only apportion very limited weight to the sustainability credentials that would arise.
19. The Lodge appeared to be in overall good condition and until recently has been occupied. There is no substantial evidence before me to convince me that by not approving a change of use, would threaten the optimum viable use of the heritage asset.
20. Overall, the weight that I would ascribe to the public benefits that would accrue from the proposal is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. I am not persuaded there is clear and convincing justification for the identified harm to the setting of the heritage asset.
21. On this basis it would not comply with the heritage safeguarding aims of East Herts District Plan policies HA1, HA7 and the broad design and heritage aims of Policy HDD6 of the Hunsdon Neighbourhood Plan, or the same heritage protection aims of the National Planning Policy Framework. Nor would it meet the requirements of the Act.

*Main issue - Suitability of the site*

22. The site is not well related to Hunsdon and according to Council policy GBR2 is a 'Rural Area Beyond the Greenbelt'. Although the appeal site is located close to other residential uses, it is nevertheless outside the settlement village of Hunsdon, approximately 1.5km away. There are no public transport options close to the site and this is a reasonable distance to travel by foot to Hunsdon. The main road is two-way traffic at 40MPH outside the site with warning signs to advise drivers of sharp bends close to the site. I also noticed mirrors located on the opposite sides of private drives along this part of the road, reinforces its potential danger.
23. As there are no public transport options available for residents to avail from other than closer to Hunsdon with no footpaths or streetlamps until much closer to the main settlement, I am not convinced that accessing the local amenities on foot would be safe for future occupants. These things considered, it would likely encourage the use of the private car. Furthermore, there are limited services available within the settlement and

residents of the proposed development are likely to need to travel to other settlements in order to access all the services and facilities that they may need on a day-to-day basis.

24. I am aware that Council policy TRA1 advocates development within sites that are accessible by sustainable means of transport. The site is not well connected to the settlement and the limitations of the location of this site to public transport options does not weigh in its favour. Therefore, to direct residential use to this location would deviate from the thrust of the local policy.
25. Even if the annex building would be capable of conversion to residential use, that alone does not justify the principle of change of use to residential. Also, in the Council's evidence, they have confirmed that they have an up to date 5-year housing land supply. There is nothing before me that contradicts this.
26. Therefore, to conclude on this main issue, the change of use to residential would represent an unsuitable location for a dwelling. The development, in this regard, would conflict with the broad sustainability objectives of Policies DPS2, GBR2 and TRA1 of the District Plan.

*Main issue - Character and appearance*

27. Local policy GBR2 reinforces the 'valued countryside resource'. This policy specifies the types of development in the open countryside that are only permitted where it is compatible with the character and appearance of the rural area. The Framework seeks to recognise the intrinsic character and beauty of the countryside. From my assessment, the character of the locality is one of a tranquil and open environment with low density of development surrounded by fields and buildings of historic interest. Even though the building exists, by changing its use, this proposal would alter its appearance and subservient characteristics to better reflect the required domestic characteristics of a dwelling. The resultant comings and goings of vehicles and domestic paraphernalia arising from an independent residential use when taken as a whole, would lead to a domesticising of the site and would erode the distinctive characteristics of the countryside. It would result in an adverse effect upon the character and appearance of the surrounding area.
28. I therefore conclude on this main issue that the proposed development would lead to some harmful erosion to the character and appearance of the surrounding area. The development, in this regard, would conflict with Policies GBR2, and DES4 of the District Plan that aims to protect character and distinctiveness. It would also conflict with the National Planning Policy Framework that seeks to conserve and enhance the natural environment and to achieve well designed places.

**Other Matters**

29. The absence of harm to the living conditions of local residents and the fact it would meet Council car parking standards is neutral in the overall consideration of things and neither weighs for or against the proposal.
30. The Council refers to other additional designated heritage assets that the appeal proposal would be experienced within their setting. However, I am

not convinced that the proposal would visually affect how these other assets would be experienced given the relationship between the two.

### **Conclusion**

31. The proposed development would conflict with the development plan. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal is dismissed.

*Alison Scott*

INSPECTOR





# Appeal Decision

Site visit made on 5 August 2024

**by A Hickey MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 September 2024**

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**Appeal Ref: APP/J1915/W/23/3331655**

**Land North East of Lower Road, Great Amwell**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mrs Margaret Nolan against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/0690/FUL.
  - The development proposed is described as undertake landscaping and building works to a vacant plot of land to create equestrian facilities. The proposals will include a new
  - hardstanding, stables, riding ring, and grazing land.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Since the Council issued its decision, a revised National Planning Policy Framework (the Framework) was published. The main parties have been given the opportunity to comment on the updates to the Framework during the appeal process and I have taken these into consideration in my decision.

## Main Issues

3. The main issues are:
  - whether the development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect upon the openness of the Green Belt;
  - the effect of the development upon the character and appearance of the area;
  - the effect of the proposed development on the Public Right of Way (PROW);
  - whether any other matters weigh significantly either for or against the development; and
  - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Whether Inappropriate Development*

4. Policy GBR1 of the East Herts District Plan (DP) states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. Paragraph 154 of the Framework indicates that the construction of new buildings should be regarded as inappropriate in the Green Belt except in a number of clearly defined circumstances.
5. Relevant to this appeal is the exception at subparagraph b) of paragraph 154. This relates to the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries, and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Also relevant to the appeal is Paragraph 155 subparagraph e) that states the material changes in the use of land (such as changes of use for outdoor sport or recreation) would not be inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
6. The appellant states that recreational equestrian uses are not inappropriate in the Green Belt. Nonetheless, they are required to preserve the openness of the Green Belt and not conflict with the purposes of including land within it. Therefore, whether the proposal would be inappropriate development is contingent on whether it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it.
7. Paragraph 142 of the Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness of the Green Belt has a spatial aspect as well as a visual aspect. Both aspects therefore need to be considered.
8. The proposed development would largely clear the site for grazing and introduce a modest-sized stable building, riding ring, front gate, and hardstanding area with an access track into a site that is currently devoid of any built development. In spatial terms, the footprint and bulk would inevitably have an impact on the openness of the Green Belt.
9. The stable building would be located to the rear of the proposed access track behind a new entrance gate. Although a good level of screening would be provided by the landscaping on the boundaries, which would help to screen views, it would stand alone where its mass, height and volume would be visible from public vantage points on the adjacent lane. As such, the increase in built form, along with its positioning and the introduction of substantial access gates and hardstanding, would also result in a loss of openness in visual terms, leading to a fundamental and permanent change to the Green Belt.
10. For these reasons, the proposed development would not preserve the openness of the Green Belt in both visual and spatial terms. It would therefore comprise inappropriate development in the Green Belt. The proposed development would therefore not comply with the Framework or DP Policy GBR1.



### *Character and appearance*

11. The appellant refers to the site forming part of the Great Amwell Ridge and Slopes landscape area, which is described as a complex semi-urban area with two settlements and combined-urban edge and rural land uses.
12. The appeal site consists of a rectangular shaped parcel of land which narrows in the middle. The appeal site is situated between a lake and a railway line to the north and northeast. Beyond the railway line lies the River Lea and open fields, which are accessible by a PROW that runs alongside the appeal site. Built form including dwellings, is located to the south and southwest. Much of the development to the south and southwest is set behind a green wedge of trees and vegetation.
13. The appeal site has a green, undeveloped appearance as it is covered in well-established trees of varying sizes and substantial vegetation. The appeal site and frequent mature trees on both sides of the lane form a break from the surrounding built form on the opposite side of the lane for users of the PROW. These trees, alongside established surrounding vegetation, including the trees subject to a Tree Preservation Order at the appeal site, contribute to the rural verdant feel of the lane on the settlement edge.
14. To accommodate the development, the appeal scheme would see the removal and cutting back of a number of trees that are protected. The development would also see large areas of vegetation removed to facilitate the proposed stables and associated infrastructure.
15. There are no category A trees to be removed from within the site. Nonetheless, the grouping of these protected trees adds to the visual amenity of the area, which transitions from the edge of the settlement to the lake and fields beyond the railway line. The limited proposed compensatory planting would not be sufficient to address the loss and reduction, particularly as it would open up much of the site as a paddock. On the basis of the evidence before me, the scheme would erode the aesthetically pleasing influence that the trees have on the area at the edge of the settlement.
16. The stable building is relatively modest in size and is to be constructed in materials not uncommon in rural locations. However, it would be seen alongside the riding ring, areas of hardstanding and large, overly domestic front gates. When taken together, these features would be visually intrusive and incongruous forms of development at odds with the undeveloped character of the site.
17. The proposed development would therefore fail to accord with DP Policies DES2, DES3, DES4, NE2, NE3 and CFLR6. These require, amongst other things, new development to be of a high standard of design that protects and conserves the character and distinctive features of the district's landscape including trees.

### *Public footpath*

18. DP Policy CFLR3 requires new development to not adversely affect any Public Right of Way and, where possible, should incorporate measures to maintain and enhance the Rights of Way network.

19. The PROW runs along the access lane that future vehicles using the stables would also use. While it is a single track, there are passing places along the route that provide good visibility for all users. While there would likely be an increase in vehicular movements, given the scale of the scheme, these movements would be limited. In this respect, the proposed development would have no adverse effect upon the PROW.
20. Moreover, the Council have provided no substantive evidence to demonstrate the appellant does not have a private vehicle access right over the PROW. Consequently, the proposal would not have a harmful effect on the PROW and therefore comply with DP Policy CFLR3.

#### *Other Matters*

21. I have established above the proposal would conflict with DP Policy CFLR6 in so far as it relates to character and appearance. The Council's second reason for refusal also raises concerns with the need for the development including the size of the stable and the adequacy of the amount of pasture space that would be available.
22. As the building would contain two stables, it is likely that the stable would accommodate two horses. In the absence of any cogent evidence, the building's size appears to be no larger than what one would expect for a building to accommodate two horses and their associated equipment and feed.
23. With regard to recommendations for grazing land based on the guidance of the British Horse Society, both parties have referred to a shortfall of 0.1ha per horse. The shortfall would be minimal, and it is only a recommendation and in the absence of any substantive evidence to demonstrate otherwise, there would be adequate pasture to support two horses.
24. Policy CFLR6 does not explicitly state that structures on other sites must first be explored or that there is a need to identify where the horses are currently kept. There are no existing buildings on site to be reused and given that a stable is proposed, there is a need for the building on site in this location. As such, I can see no further conflict with the previously mentioned Policy CFLR6, relating to equine development in so far as it relates to criteria (a)-(g).
25. The Council's fifth reason for refusal related to biodiversity net gain (BNG) and climate change and water resource policies. The appellant states that BNG is unlikely to be achievable given the scale of the development in comparison with the site area and, therefore, states the requirement of the policy becomes disproportionate. However, insufficient evidence is before me to conclude that other feasible and proportionate alternatives have been adequately explored. As such, the appeal scheme would conflict with DP Policies NE2 and NE3 which seek to achieve a net gain in biodiversity on site.
26. In the case of DP Policies on climate change, CC1, CC2 and water efficiency Policy WAT4, I find that these matters could be dealt with by appropriately worded conditions. This is because of the limited scale and nature of the development proposed.
27. In regard to these other matters, compliance with some DP Policies is a neutral matter weighing neither for nor against the development. However, the failure to provide BNG would result in significant harm to biodiversity and weighs against the proposal.

### *Other Considerations*

28. There is no identified harm with respect to the amenities of neighbouring properties, harm to the PROW, or climate change, which carry no weight in the overall Green Belt balance.
29. The proposal would provide benefits for the users in terms of health and recreation through the day-to-day management of caring for the horses. The evidence before me indicates that these would be purely private benefits. Planning is concerned with land use in the public interest and, as such, this holds limited weight in this context.

### **Conclusion**

30. The proposed development would be inappropriate development in the Green Belt and would harm openness. As such, the Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also be harmful to the character and appearance of the area and fail to provide BNG on site. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
31. Given the substantial weight to be given to Green Belt harm combined with the other identified harm relative to the limited benefits of the proposed scheme, the harm is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist.
32. For the reasons set out above, I conclude that the appeal is dismissed.

*A Hickey*

INSPECTOR



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## Appeal Decision

Site visit made on 22 July 2024

**by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**  
an Inspector appointed by the Secretary of State

**Decision date: 21 August 2024**

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### **Appeal Ref: APP/J1915/D/24/3342536**

### **8 Moat Side Anstey Buntingford SG9 0DD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr C Bullen against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/2214/HH.
  - The development proposed is Removal of rear canopy roof. Proposed loft conversion with 2 rear dormer windows and proposed bi-fold doors to rear elevation.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matter**

2. The appeal site falls within a Conservation area and lies adjacent to a listed building which is also a designated heritage asset. The Planning (Listed Buildings and Conservation Areas) Act 1990 at section 66 imposes a general duty to pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. A similar duty exists in relation to Conservation Areas at Section 72. Whilst I have noted the comments of the Council in that regard and the character and appearance of Moatside is such that a small degree of change to the appearance of the appeal site would likely preserve the Anstey Conservation Area (ACA), it is not apparent that the Council have fully addressed the impact of the proposal on the setting of the adjacent listed building which, from my observation, must include the garden area which surrounds it. It falls to the decision-taker to exercise these duties and consequently I consider it necessary to also address these concerns in the appeal.

### **Main Issue**

3. The main issue is the effect of the development upon the setting of Red Stack, the neighbouring property, which is a designated heritage asset and upon the living conditions of its occupiers.

### **Reasons**

4. No.8 Moatside (No.8) is a one-bedroomed semi-detached bungalow dating from the mid-late twentieth century which sits within a group of 3 similar bungalow

- pairs<sup>1</sup>. These are arranged in an L-shape around a shared grass area which, with three other houses of recent construction, are accessed off Moatside a short access road which sits between a scheduled monument to the south-west<sup>2</sup> and Red Stack to its north-east, a Grade II listed 17<sup>th</sup> century timber-framed house that benefits from a large private garden which provides its setting.
5. Anstey is a small village dating from the medieval period that despite subsequent insertions of housing groups, largely retains a quiet rural character with hedged boundaries and treed verges. Almost all of the village, including Moatside and the surrounding properties fall within the Anstey Conservation Area (ACA).
  6. The proposal would incorporate the existing roof void of No.8 into the living space, involving the introduction of two dormer windows into the rear roof slope. No.8 lies (along with 6,7 and 9 Moatside) adjacent to the shared boundary with the large garden of 'Red Stack'.
  7. Although there are a number of trees along this boundary, I noted from my inspection of the adjacent garden of Red Stack that even in times of full leaf<sup>3</sup>, the proposed dormers would very likely provide a view into the garden of this listed house, potentially overlooking a well-used part of what is currently a private, well enclosed garden not overlooked by neighbouring users.
  8. Policies DES4 and VILL2<sup>4</sup> of the East Herts District Plan 2018 (EHDP) both refer to the protection of neighbouring amenity as a consideration for development proposals. In that regard the impacts of introducing new development and the acceptability of overlooking will vary according to the circumstances in each case.
  9. Whilst, due to factors which include the density of development and unavoidable proximity, in the majority of urban or suburban environments outdoor amenity space cannot be private in the sense of it being secluded and not overlooked. Mutually overlooked suburban gardens or tightly planned urban settings are tolerated (or found acceptable) within the shared social reality and choices made in pursuit of urban or suburban living<sup>5</sup>. However these are not factors which apply in this case. Red Stack is designated heritage asset possessed of a highly secluded and private garden area within a Conservation Area and these are factors which guide my assessment of the impacts of the proposal.
  10. Although the existing brown concrete pantile roof can be seen from the adjoining garden of Red Stack, its subdued colour means it has little visual impact within the treed setting along the shared boundary. I have noted the appellant's comments as to the impacts of the proposal as to distance and positioning, however, the proposed flat-roofed dormer window(s) would introduce an element of twentieth-century built form which would draw attention to these insertions by colour, shape and potentially at night as a light source in an otherwise dark environment. Even if rarely used there would be a

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<sup>1</sup> numbered respectively 4&5; 6&7; 8&9 Moatside.

<sup>2</sup> The site of a moated norman castle

<sup>3</sup> As was the case at the time of site visit

<sup>4</sup> At V(g)

<sup>5</sup> This is particularly relevant where housing is arranged along parallel roads and narrow plot widths mean intervening planting is absent.

perceived loss of the near-absolute seclusion and privacy currently enjoyed by occupiers of Red Stack from an awareness that such a viewpoint exists. That weighs against the proposal. I have noted the appellant's suggestion as to a condition to obscure-glaze the bedroom dormer as well as the bathroom. Whilst that would prevent overlooking it would both detriment living conditions for occupiers, by removing what would be a reasonable expectation of outlook from a bedroom, and would not address my concerns on the other matters I have identified.

11. Although the Council suggest that the works proposed would not affect the setting of this listed building it is not clear how that conclusion was reached. My observations are that the relatively separate nature of the setting of Red Stack, particularly its rear garden, is an important contributor to its significance as a historic building which the proposal would breach in the way I have explained. I acknowledge that the appellant suggests the intervening distance and vegetation points to the impact of the dormer not being significant however that does not account for the intrusive impact of the proposal upon an otherwise separate and secluded setting. I consider there would be a minor degree of harm to the significance of this heritage asset by introducing an awareness of more recent development within the Conservation Area that would otherwise not be evident when experiencing this heritage asset in its primary setting. Although altered, this is plainly a building with origins of significant age, so whilst the harm identified is limited it, nevertheless, should attract considerable importance and weight in the overall planning balance to which I now turn.
12. The proposal would provide additional accommodation and make the existing one-bedroom accommodation potentially more suitable for a small family rather than one or two people. This stands as a benefit to be weighed in favour of the proposal. However, having considered the comments of others, including that of the Parish Council it is apparent that benefit could be achieved in other ways without the introduction of dormers on the rear roof slope. Consequently, although the matter is finely balanced as the harms I have identified might be of little importance in other circumstances, overall the proposal would not meet the objectives set out in Policy VILL2 at V(g) in that there would be significant detriment to amenity for occupiers of Red Stack and, in addition, that the objective of preserving or enhancing designated heritage assets set out in Policy HA1 of EHDP would not be achieved.
13. For these reasons, having considered all matters raised, the appeal cannot succeed.

*Andrew Boughton*

INSPECTOR



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## Appeal Decision

Site visit made on 22 August 2024

**by Ian McHugh DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 September 2024**

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### **Appeal Ref: APP/J1915/D/24/3341046**

### **Bluebell Cottage, Hare Street, Buntingford, SG9 0DY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr James Gladding against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/2260/HH.
  - The development proposed is demolition of existing conservatory and chimney, erection of part single/part two-storey rear extension incorporating roof lantern, rear roof lights and terrace at first floor. Alterations to roof to include dormer windows to front and rear, alterations and insertion of fenestration, construction of boundary walls, raised rear patio, external steps, and landscaping.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for demolition of existing conservatory and chimney, erection of part single/part two-storey rear extension incorporating roof lantern, rear roof lights and terrace at first floor. Alterations to roof to include dormer windows to front and rear, alterations and insertion of fenestration, construction of boundary walls, raised rear patio, external steps and landscaping at Bluebell Cottage, Hare Street, Buntingford, SG9 0DY, in accordance with the terms of the application Ref 3/23/2260/HH, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL001 rev A; PL010; PL011; PL012; PL020; PL021; PL100 rev C; PL101 rev D; PL02 rev C; PL200 rev D; and PL201 rev E.
  - 3) The materials to be used in the external surfaces of the development hereby approved shall be as specified on the planning application form.
  - 4) Notwithstanding the approved drawing and prior to the first use of the first-floor terrace, the timber privacy screen as shown on drawing PL201 Rev E shall be installed to a height no less than 1.8m. The screen shall then be retained as such at all times throughout the life of the development.

## **Main Issue**

2. The main issue is the effect of the proposal on the character and appearance of both the existing dwelling and the surrounding area.

## **Reasons**

3. The appeal property is a detached dwelling, which is situated facing Hare Street within a rural location on the outskirts of Buntingford. The area is characterised by a mixture of houses that adjoin open countryside. The dwellings vary in terms of their age, scale and appearance and there is no common architectural character.
4. The existing dwelling is relatively modest in scale and it includes previous additions, including a glazed conservatory and an open-sided canopy, which covers an existing terrace/patio area. I also observed during my site visit that a relatively large rear extension has constructed on the neighbouring dwelling, Lavender Cottage. The Council states that this was approved in 1977.
5. The proposal is for various alterations and extensions, as described in the heading above. They would add significantly to the scale and volume of the building, particularly at the rear. The Council argues that the proposed single/two-storey rear extension would be out of scale with the existing dwelling, because of its depth. It argues that it would not appear subservient and it would be out of proportion in relation to the existing dwelling.
6. Policy GBR2 of the East Herts District Plan 2018 (DP) seeks to maintain the rural area beyond the Green Belt and requires alterations and extensions to buildings to be appropriate in size, scale, mass and form in relation to the existing site and its surroundings. In addition, Policies DES4 and HOU11 of the DP require the design of new development to be of a high standard and for extensions to dwellings to appear as subservient additions.
7. I have stated above that the proposal would add significantly to the scale and volume of the building and I accept that the rear extension, particularly the single-storey element, would not appear as a subservient addition. In that regard, the proposal would conflict with Policies GBR2 and HOU11 of the DP.
8. However, whilst there is a conflict with the LP, other material considerations must also be considered. Although the extension at Lavender Cottage was approved in 1977 and consequently determined under different planning policies, the enlarged property remains part of the character and appearance of the area, particularly given its close physical relationship with the appeal property.
9. The appeal proposal would extend out at the rear a comparable distance with the extension at the neighbouring dwelling, and it would also replace an area that already includes the existing conservatory, covered canopy and hard surfaces patio/terrace area. These currently detract from the property and give it a somewhat disjointed appearance.
10. Furthermore, the proposed rear extension would not be highly visible from public viewpoints, given that views from Hare Street are largely screened by existing hedgerows or by Lavender Cottage. In addition, the proposal would not encroach beyond the existing garden of the dwelling and, therefore, the open countryside setting of the property would be retained. In my opinion,



these material considerations outweigh the conflict with the LP and I conclude that the proposal would not have an unacceptably harmful effect on the character or appearance of both the existing dwelling or the surrounding area.

11. I note that the Council has not objected to the remainder of the other works, (including the proposed dormer windows) despite expressing some concerns over the proposed boundary walls. I have no reason to disagree with the Council's assessment of these other works, which I also find acceptable.

### **Conditions**

12. The Council has suggested conditions in the event of the appeal being allowed. I have imposed the standard conditions relating to the time period in which to commence the development and the list of approved plans. To ensure a satisfactory external appearance, a condition is also imposed requiring the use of the external materials that have been specified on the planning application form.
13. The Council has also suggested that a condition be imposed requiring the installation and retention of privacy screening on the edge of the first-floor roof terrace. I consider this to be reasonable and necessary in order to protect the privacy of the occupants of the neighbouring dwelling.

### **Conclusion**

14. For the reasons given above, it is concluded that the appeal be allowed.

*Ian McHugh*

INSPECTOR



# Appeal Decision

Site visit made on 5 August 2024

by **A Hickey MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16<sup>th</sup> September 2024

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**Appeal Ref: APP/J1915/D/24/3340988**

**9 High Street, Walkern, Hertfordshire SG2 7PD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Iain Budge against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/2275/HH.
  - The development proposed is erection of car port/storage incorporating electric charging points.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. At the time of my visit, there was a building to the front of the host property. As this does not reflect the submitted plans, I have considered the appeal as a proposed scheme and on the basis of the submitted drawings.
3. Reference to the proposed development being 'part retrospective' has been removed in the banner above as this is not an act of development.

## Main Issues

4. The main issues are the effect of the development on:
  - the character and appearance of the area including the significance of 9 High Street as a non-designated heritage asset (NDHA) and whether it would preserve or enhance the character or appearance of the Walkern Conservation Area (WCA); and
  - protected trees.

## Reasons

### *Character and appearance and heritage assets*

5. The National Planning Policy Framework (the Framework) requires the effect of an application on the significance of a non-designated heritage asset to be taken into account when determining the application. A balanced judgement is required regarding the scale of any harm and the significance of the heritage asset.
6. 9 High Street (No 9) is a large, detached dwelling constructed of brick with stone features and a slate roof. The property is set back from High Street by a well-sized front garden and driveway, but it sits close to Church End. Despite

- being set back from High Street the dwelling occupies a prominent position at the junction on a main route through the village. The significance of No 9 as an NDHA is largely derived from its prominent location within a large fairly open plot to which its surviving historic fabric, pleasing architectural composition, simple detailing and use of traditional materials all positively contribute.
7. The appeal site is located within the WCA. As such, I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing its character or appearance. The significance of the WCA, particularly this part in which the appeal site is located, is derived from the historic linear pattern of development along the High Street. Along this route are many listed historic buildings along both sides of the road. Dwellings in the area are commonly set back from the road and footway behind gardens with traditional low front boundaries allowing visually permeable public and private spaces. Consequently, the generally unaltered historic layout and forms of dwellings and buildings in the area add to the architectural interest and character of the WCA.
  8. The building would be partially screened by well-established trees and planting but would be visible from short and medium-range views. The carport would not appear overlarge relative to the overall plot size. Nonetheless, the building is of a size that would still be a significant addition in this location.
  9. Although it would be set back from High Street, the overall scale and form of the proposed building would be out of character with the established pattern of development in the area. It would compromise the sense of undeveloped open-front gardens within the area. The building's scale, height, and location would result in an incongruous addition in front of the host dwelling. It would thereby compete visually with the existing property, which would harm the setting of No 9 as an NDHA.
  10. Furthermore, the prominence of the building in this location would be further emphasised by seasonal leaf fall, gaps and pruning. It therefore follows that the development proposed would erode the contribution the host dwelling as an NDHA makes to the WCA, and as a consequence harm to the significance of the WCA as a designated heritage asset would result.
  11. Other detailing, such as the proposed materials, can be found within the area, such as at Manor Farm and Bridgefoot Farm Barns. They would also be sympathetic to the character and appearance of the host dwelling as an NDHA. However, this does not outweigh the harm identified above as a result of scale, height and location of the building close to the host property in the fairly open front garden.
  12. While additional landscaping could provide further screening, this would take some time to mature, and it would not be appropriate to condition it. In any event, should additional landscaping be removed, die or become diseased, the building would be highly exposed, resulting in harm to the NDHA and the WCA. Any replacement planting would also take time to mature.
  13. For the purposes of the Framework, the WCA is a designated heritage asset. The proposal would lead to less than substantial harm to the significance of the WCA. The Framework indicates that such harm is to be weighed against the public benefits of a proposal. However, great weight should be given to an asset's conservation.

14. The appellant is seeking to create a carport and storage space for the occupiers of No 9. My attention has been drawn to a carport allowed to the front elevation of the appeal property. While I do not have full details, the evidence indicates it was in a different location, had an alternative orientation and size and is therefore materially different from the appeal scheme. Even if I were to accept vehicles being shielded from view was a public benefit, given the scale of the scheme, the benefit would be small, and as such, the public benefits do not outweigh the identified harm in this case.
15. The appeal site is within the setting of several Grade II listed buildings. Notwithstanding the harm I have already found, the carport would be a sensitive form of development to these surrounding heritage assets, given its size and location away from them. This would match the findings of the Council who have not objected on these grounds.
16. In view of the above, the proposal would have a harmful effect on the significance of No 9 as an NDHA and would not preserve the character and appearance of the WCA or the surrounding area. The development would, therefore, be contrary to East Herts District Plan (DP) Policies HOU11, DES4, GBR2, HA1 and HA4. Amongst other things, these policies seek to ensure new development reflects local distinctiveness, including the character and appearance of the existing dwelling and surrounding area while preserving the historic environment. The proposal would also conflict with the provisions of the Framework in regard to conserving and enhancing the historic environment.

#### *Protected trees*

17. DP Policy DES3 requires, amongst other things, proposals to demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value in order to ensure that there is no net loss of such features.
18. There are mature trees within the appeal site close to the appeal building that positively contribute to the area's verdant, somewhat rural character. Due to the trees' substantial size, they likely have an extensive root system. However, no arboricultural survey report or other appropriate form of evidence has been submitted, to determine the root protection areas and any associated mitigation which may be required.
19. During my site visit, I observed that close to the partially constructed building onsite, the roots of a nearby tree were exposed close to the foundations. I also observed what appeared to be lopping to branches on the same tree above the building.
20. Given the proximity of the tree to the appeal scheme, it is not possible for me to conclude that the proposal would not cause damage to the tree roots. Furthermore, the loss of, or work detrimental to, the appearance of this protected tree, which makes a substantial positive contribution, would, in my view, result in harm to this existing landscape feature.
21. In reaching this view, I have taken the appellant's comments into consideration, stating that there has been no adverse impact on the overall root protection area of surrounding trees given the building erected on site. However, I cannot be sure there would be no longer lasting effects on the health of the tree given the exposed roots I observed. Moreover, the proximity

of the appeal scheme may place future pressure on regularly or extensively pruning the nearby trees or having them removed altogether.

22. As there is a degree of uncertainty around the effects of the proposal on the protected trees, the use of conditions would not be appropriate in this case. I therefore conclude that insufficient information has been provided to demonstrate that the proposed development would not cause harm to the protected trees. Accordingly, the proposal would conflict with DP Policy DES3.

### **Other Matters**

23. The proposal is considered acceptable by the Local Planning Authority regarding the lack of harm upon neighbouring properties and nearby listed buildings. The appellant has also stated they have received compliments on the design of the building. Nonetheless, these matters do not outweigh the harms I have found above.
24. My attention has been drawn to a development on the opposite side of High Street from the site. However, these buildings would be located close to and share a similar building line to development found alongside this side of the road.

### **Conclusion**

25. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
26. Therefore, I conclude the appeal should be dismissed.

*A Hickey*

INSPECTOR



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## Appeal Decision

Site visit made on 19 July 2024

by **J L Cheesley BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 August 2024

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**Appeal Ref: APP/J1915/D/24/3339742**

**4 Thorley High, Thorley, Bishops Stortford, Hertfordshire CM23 4AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Michael Fisher against the decision of East Herts Council.
  - The application Ref is 3/23/2276/HH.
  - The development proposed is demolish existing PC garage and replace with two-storey side extension at same overall width. Demolish existing brick-built utility annexe to rear of existing house. Construct full width rear single-storey extension with extents and sloping roof in plane of similar extension to adjacent adjoining property (semi-detached).
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### Decision

1. The appeal is dismissed.

### Main Issues

2. I consider the main issues to be:

whether the proposal would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, and if so, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal; and

the effect of the proposal on the openness of the Green Belt.

### Reasons

3. The Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence. The construction of new buildings in the Green Belt is inappropriate unless in accordance with exceptions in the Framework. One exception is the extension or alteration to a building providing it does not result in disproportionate additions over and above the size of the original building.
4. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. Policy GBR1 in The East Herts District Plan (2018) (District Plan) states that planning applications within the Green Belt will be considered in line with provisions of the Framework.

5. The appeal property lies within a group of detached and semi-detached dwellings where some have been extended to the side and rear. The appeal property is a semi-detached two-storey dwelling. The proposal includes a two-storey side extension expanding the main two-storey gable end section of the existing dwelling across its full depth. A single-storey rear extension would extend across the whole of the rear in line with the adjoining extension to the neighbouring property. A garage, utility annexe and rear conservatory would be demolished. Whilst the Council considers all these to have been extensions to the original dwelling, it was not clear at my site visit whether the garage and possibly the utility annexe were part of the original property, although the conservatory does appear to be an addition.
6. From my observations, due to the scale of the proposed extension in comparison to the scale of the original property, even if the garage and utility annexe were original developments, and taking into account the demolition of the conservatory, I consider that it would be such a significant increase in floor area as to be a disproportionate addition. This would constitute inappropriate development in the Green Belt.
7. Added to the harm of being inappropriate development is the impact that the proposal would have in diminishing the sense of openness of this part of the Green Belt. The garage, utility annexe and conservatory are lightweight structures. Due to their designs and positions, they have little impact on the openness of the Green Belt. Whereas the proposed extension to the property, due to its design and scale would exacerbate the presence of the residential property in the streetscene, significantly increasing the footprint and bulk of built form at the property. Therefore, I consider that the proposed addition of domestic built form would diminish the sense of openness of this part of the Green Belt, both in spatial and visual terms.
8. Drawing the above factors together, I consider that the development would harm the openness and visual amenity of the Green Belt and would have a greater impact on the purpose of including land within it than the existing condition of the appeal site. The proposal thus conflicts with the Framework and with District Plan Policy GBR1.

*Other considerations*

9. I note that there have been extensions to other dwellings in this group of properties, particularly to the adjoining property. None are directly comparable to the proposal before me. In particular, on the adjoining property there is a less intrusive hip, rather than gable end, roof structure. These are material considerations, and I have attributed some weight to the presence of other extensions in the vicinity in my determination of this appeal.
10. Conversely, it appears that these extensions were permitted prior to the adoption of the current development plan. This factor limits the weight I can attribute to these permissions. I accept that the Council has raised no objection to the proposal in terms of the character and appearance of the area. However, as set out above, the main issues in this case are the effects of the proposal on the Green Belt, and I have considered the appeal on this basis. In any event, I have determined the proposal before me on its individual merits.

*Conclusion*

11. In reaching my conclusion, I have had regard to all matters raised. It is necessary to determine whether there are other considerations which clearly outweigh the harm to the Green Belt, and any other harm, hereby justifying the proposal on the basis of very special circumstances. For the reasons stated above, in my opinion the considerations advanced in support of the proposal do not clearly outweigh the harm it would cause to the Green Belt. In conclusion, I am of the opinion that there are no material factors that would amount to the very special circumstances needed to clearly outweigh the presumption against inappropriate development in the Green Belt. Thus, the proposal would be contrary to District Plan Policy GBR1 and policy in the Framework.
12. For the reasons given above the appeal should be dismissed.

*J L Cheesley*

INSPECTOR





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# Appeal Decision

Site visit made on 27 August 2024

**by Peter D. Biggers BSc Hons MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> September 2024**

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**Appeal Ref: APP/J1915/W/24/3342885**

**Major Barclay Farms, Beeches Manor, Brent Pelham, Buntingford SG9 0HJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Ross Mayger (Sworders) against the decision of East Herts District Council.
  - The application Ref is 3/23/2284/FUL
  - The development proposed is erection of an agricultural straw barn and associated development.
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## Decision

1. The appeal is allowed and planning permission is granted for erection of an agricultural straw barn and associated development at Major Barclay Farms, Beeches Manor, Brent Pelham, Buntingford, SG9 0HJ in accordance with the terms of the application, Ref 3/23/2284/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

## Application for costs

2. An application for costs was made by Mr Ross Mayger (Sworders) against East Herts District Council and this is the subject of a separate decision.

## Main Issues

3. The main issues are whether the proposed development would amount to an agricultural use justified in the countryside location and whether there would be an adverse effect of the proposed barn on the character and appearance of the rural area.

## Reasons

4. The appeal site sits approximately 130 metres at the closest point to the north of the main farm buildings at Beeches Manor Farm on the east side of Beeches Woodland. The site is currently gravelled hardstand with straw bales stored in the open.
5. Beeches Manor is an arable farm extending to 571 hectares with the farm buildings sited together on the north side of Pump Road (B1038) and principally used for cereal and machinery storage. The farm complex has a biomass-fed heating system for heating the farm offices which is intended to be used for grain drying on the farm. The boiler is straw fed and the proposal is to develop a barn to store straw from cereals grown on the farm for this purpose.

6. Policy GBR2 of the *East Herts District Plan* (EHDP) at Policy GBR2 allows agricultural buildings in the area beyond the green belt provided there is no adverse impact on the character and appearance of the rural area.
7. It has been put to me that there is insufficient evidence to demonstrate the need for the building and whether the straw barn actually constitutes an agricultural use and therefore that the countryside location is appropriate. Whilst I understand why the council might wish to be assured about the need, I note that neither Policy GBR2 nor the supporting text requires need to be demonstrated. Nevertheless, I consider the matter below.
8. Given that the farm business is growing cereals, a major output from that operation will be straw and it was evident from my visit at a time when harvesting was underway that a considerable amount of straw had already been harvested and was stored on the appeal site. Straw constitutes a side product of the principal agricultural operation – growing cereals and it is entirely justified that it is stored on the farm. As stated above the intention is that the straw will be used to feed the biomass boiler used to provide heat for the farm and for grain drying and for that purpose it needs to be dry straw. Currently the evidence before me suggests that 40% of the straw, if stored externally, is too wet to use and therefore the need for the straw barn to protect it from the elements. As dry grain is an essential requirement of an arable farm's cereal output and dry straw is to be used as an on-farm sourced sustainable supply of biomass for the boiler I am satisfied that the straw barn is needed and would be agricultural in its use.
9. In that regard the principle of the barn is not in conflict with EHDP Policy GBR2 and what remains to be determined is whether the barn could be located elsewhere and if not its impact on character and appearance.
10. It has been put to me that the straw could be stored in one of the permitted buildings adjacent to the main steading area but not yet constructed. There are two reasons why this would not be an option. First it is the stated intention of the applicant that the, as yet, unbuilt barns on the steading are still required for grain storage. I have no evidence to suggest otherwise. Secondly, and more importantly, as a highly flammable commodity, if straw is stored in the main steading and goes on fire it is highly likely to result in significant damage to the rest of the steading, machinery and any crops stored within it. This is borne out by the appellant's evidence from the NFU and insurers advising that hay and straw should be stored away from other buildings. For these reasons I am satisfied the use of the buildings already permitted would not be possible and a location outside the steading buildings would be justified.
11. It has been put to me that the appeal site would be unnecessarily far removed from the steading and that a location closer to the steading could meet the NFU and the insurer's advice, and would be better in terms of impact on the rural area. However, in the chosen location the barn would be utilising an area of broken hardstanding already in use for straw storage in large ricks and the barn would be screened in part by Beeches Wood to the west and the hedgeline to the north. If the barn were to be moved further south towards the steading the barn would be in more open ground, more likely to be visible in views from the B1038.
12. The barn in the proposed location, subject to appropriate materials and colourings, would not be overly intrusive and this could be controlled by an

appropriately worded materials condition. Moreover, it is worth bearing in mind that an open sided, appropriately coloured barn would have little greater visual impact than the current practice of covering the large straw ricks on the appeal site with white tarpaulins shown in the photos submitted with the appeal.

13. In terms of visibility in the countryside, as already stated the barn is partially screened by woodland and hedgerow planting. It would not be widely viewed from the B1038 approaching from the west due to distance and topography nor from the road in the approach from the east although a glimpsed view would be possible on the bend at the start of the public footpath just west of Grays Cottages. Open views of it would be seen from this footpath (FP27) but the barn would be seen against the woodland of Beeches Wood.
14. I am not therefore persuaded by the Council's argument that the barn would be particularly prominent in the wider landscape. As such, and for the reasons above, and subject to condition the proposed barn would be compatible with the character and appearance of the rural area, the test in Policy GBR2.

#### *Other Matters*

15. Section 66 of the *Listed Buildings and Conservation Areas Act 1990* requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the listed building. Beeches Farmhouse is a grade II\* listed building. However, the appeal site is separated from the listed building by the present farm steading and its substantial barns and structures. The proposed straw barn would not be viewed together with the listed building and given this context, the proposal would not harm the setting or significance of the listed building and would therefore not conflict with EHDP Policy HA1 and Policy HA7 on heritage assets.
16. A Scheduled Ancient Monument (Shonks Moat), a medieval moated site and an area of archaeological significance, lies to the east of the appeal site. Given the distance from the monument and the fact that the asset is screened by woodland from the appeal site any visual impact would be limited. It is clear from the appeal documents that no finds of archaeological interest are known from the appeal site. Applying a precautionary approach however, as the site has the potential to include remains, a condition requiring archaeological investigation would be justified.

#### **Conclusions and Conditions**

17. For the reasons above I am satisfied that the straw barn would constitute an agricultural use and that its provision on the farm is needed. Its location at a distance to the steading would be justified and given the partial screening by Beeches Wood and the hedgerow and provided materials and colouring are appropriately controlled the barn would not have an adverse impact on the character and appearance of the rural area. The appeal is allowed and planning permission is granted for the straw barn.
18. The Council has proposed a number of conditions in its appeal questionnaire. I have considered these in the light of the advice in the *National Planning Policy Framework* and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.

19. In order to safeguard the character and appearance of the countryside two conditions need to be added requiring details of external materials including their colour to be submitted to and approved by the Council and the submission of a landscaping scheme. The Council wording of the materials condition merely requires materials to be in accordance with the plans but it is important that the Council is given control over the proposed materials and their colouring. I have therefore proposed an amended wording. In view of this the parties have been consulted on the revised condition. No concerns have been raised.
20. As stated above, in view of the Scheduled Ancient Monument in the vicinity, the site has the potential to include archaeological remains and a condition is necessary requiring archaeological assessment to be carried out in advance of any construction to ensure any archaeological interest is understood and remains recorded and protected as appropriate.
21. Finally, the development has the potential to deliver biodiversity net gain and a condition is necessary to require a biodiversity improvement plan to ensure this is delivered.

*P. D. Biggers*

INSPECTOR

### **Schedule of conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: 223404 PL100; 223404 PL300.
3. No development above floor slab level shall take place until details (including colour) of the materials to be used in the construction of the external surfaces of the barn hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. Prior to the first use of the development hereby approved, details of additional landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include full details of both hard and soft landscape proposals, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and an implementation timetable. Thereafter, the development should be implemented in accordance with the approved details.
5. No development shall take place within the proposed development site until the applicant, (or their agents, or their successors in title), has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the Local Planning Authority and approved in writing. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report on all the required archaeological works, and if appropriate, a commitment to publication has been made.

6. Prior to the first use of the development hereby approved, details of a biodiversity improvement plan shall be submitted to and agreed in writing by the Local Planning Authority, the details shall include:

- a) full details of native species planting, schedules of plants, species, planting sizes, density of planting and implementation timetable;
- b) full details of measures to demonstrate a Biodiversity Net Gain.

The development shall be carried out in accordance with the approved scheme and retained as such thereafter.



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## Appeal Decision

Site visit made on 22 August 2024

**by Ian McHugh DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 September 2024**

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**Appeal Ref: APP/J1915/D/24/3339922**

**High Trees, Great Hornead, Buntingford, SG9 0NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Dale Stacey against the decision of East Hertfordshire Council.
  - The application Ref is 3/23/2409/HH.
  - The development proposed is construction of single-storey side extension, two-storey rear extension, two-storey front porch addition to first floor windows and gable roof feature, one new first floor side window and alteration to one first floor side window, new rear patio, external steps and retaining wall.
- 

### Decision

1. The appeal is allowed and planning permission is granted for construction of single-storey side extension, two-storey rear extension, two-storey front porch addition to first floor windows and gable roof feature, one new first floor side window and alteration to one first floor side window, new rear patio, external steps and retaining wall at High Trees, Great Hornead, Buntingford, SG9 0NR in accordance with the terms of the application Ref 3/23/2409/HH, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL01; PL02 Rev A; PL03 Rev B and PL04 Rev B.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  - 4) No development or groundworks shall take place until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

### Main Issue

2. The main issue is the effect of the proposal on both the character and appearance of the existing dwelling and the Great Hornead Conservation Area (CA).

## Reasons

3. The appeal property is a detached two-storey property, which is situated in a spacious plot, accessed via a private drive. It is well set-back from the highway and is partly screened by mature trees, which are positioned closer to the road frontage.
4. The site is within the CA, which encompasses much of the settlement of Great Hornead. Consequently, building styles, ages and layout vary. However, the space around the appeal dwelling and the mature trees on the site frontage are a distinctive characteristic. Nevertheless, in my opinion, the appeal dwelling itself is of no particular architectural or historic interest.
5. Three recent proposals for extensions to the property were refused by the Council with two subsequently dismissed at appeal. The current proposal is materially different and these decisions do not create a precedent for the current appeal.
6. The current appeal proposal is for extensive alterations and extensions to the property as described in the heading above. I acknowledge that the proposal, as a whole, could not be described as a subordinate or subservient when compared to the original/ existing dwelling and, in that regard, there is a conflict with Policy HOU11 of the East Herts District Plan 2018 (DP).
7. In addition, the Council considers that the proposal conflicts with Policies DES4, VILL2 and HA4 of the DP. These policies seek to ensure (amongst other things) that the design of new development is of a high standard; that it is in keeping with the village; and it preserves or enhances the character or appearance of the CA.
8. As with most planning decisions, whether a proposal is acceptable or not is a subjective matter. In this case, whilst I have accepted that there would be a conflict with Policy HOU11 because of the overall size of the additions, this does not make the proposal unacceptable. Other material considerations must be taken into account.
9. The existing dwelling is of no merit in terms of its design and appearance and the building itself does not make a positive contribution to the significance of the CA. Whilst the proposed works would be extensive, the single -storey side extension would have little visual impact and the two-storey front porch would add some relief and interest to the property. Furthermore, whilst the two-storey rear addition would be large, it would be mostly screened by the front elevation of the dwelling and it would have little effect on the spacious setting of the property. Therefore, it would not have an adverse impact on the character or appearance of the CA.
10. The Council has also expressed concerns regarding the arrangement, spacing and number of windows that are proposed. Although the proposed glazing would be a dominant feature on the dwelling, I consider that arrangement to be balanced and of a scale that would not be at odds with the age and style of the property.
11. Therefore, I find that the proposal would not conflict with Policies DES4, VILL2 or HA4 of the DP, as referred to above.

### **Conditions**

12. The Council has suggested conditions in the event of the appeal being allowed. I have imposed the standard conditions relating to the time period in which to commence the development and the list of approved plans. To ensure a satisfactory external appearance, a condition is also imposed requiring the use of external materials that match those on the existing dwelling.
13. The Council has also suggested two additional conditions in respect of archaeology and tree protection. I have noted that the Historic Environment Section at the County Council did not respond to the consultation. However, the evidence before me is that the appeal site lies within an area of 'Archaeological Significance' and for that reason, I consider that the Council's suggested condition is both reasonable and necessary.
14. The Council has also suggested that a condition be imposed requiring the retention and protection of existing trees and hedges. However, the proposed extensions would be unlikely to impact on any trees within the site. Consequently, I am not persuaded that the suggested condition is necessary.

### **Conclusion**

15. For the reasons given above, it is concluded that the appeal be allowed.

*Ian McHugh*

INSPECTOR



## Appeal Decisions

Site visit made on 3 September 2024

**by A James BSc (Hons) MA MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19 September 2024**

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**Appeal A: APP/J1915/W/24/3344777**

**56 St Andrew Street, Hertford, Hertfordshire SG14 1JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Andre Rideout against the decision of East Hertfordshire District Council.
  - The application reference is 3/23/2427/HH.
  - The development proposed is single storey rear extension with internal alterations.
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**Appeal B: APP/J1915/Y/24/3344778**

**56 St Andrew Street, Hertford, Hertfordshire SG14 1JA**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Mr Andre Rideout against the decision of East Hertfordshire District Council.
  - The application reference is 3/23/2428/LBC.
  - The works proposed relate to single storey rear extension with internal alterations.
- 

### Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### Preliminary Matters

3. As the appeal site lies within a conservation area (CA) and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
  4. The Council raises no objections to the replacement of the existing windows in the single storey rear projection with new double glazed windows. Based on the evidence before me and my site visit, I find no reason to reach a contrary conclusion to the Council on this matter.
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5. To the west of the appeal site is '58 and 60, St Andrew Street' (Ref: 1268747), which is a late 16<sup>th</sup> century, Grade II listed building. To the east is '54, St Andrew Street' (Ref: 1268745), which dates back to the late 18<sup>th</sup>/early 19<sup>th</sup> century and is also Grade II listed. Opposite the site is a Grade II listed building, known as 'Cawthorne' (Ref: 1268743), which dates back to the late 16<sup>th</sup>/early 17<sup>th</sup> century. The 'Church of St Andrew' (Ref: 1268748), with associated features/structures<sup>1</sup> lies on the opposite side of the road and are Grade II listed. I have had special regard to the desirability of preserving the setting of these listed buildings and other listed buildings within the locality in the determination of these appeals and I am satisfied that there would be no harm to the special interest of nearby listed buildings through changes to their setting.

### **Main Issue**

6. The main issue is whether the proposal would preserve a Grade II listed building, known as '56, St Andrew Street' (Ref: 1268746) and any features of special architectural or historic interest that it possesses.

### **Reasons**

7. 56, St Andrew Street is a two storey townhouse, with attic accommodation, which dates back to the early/mid-18<sup>th</sup> century and contains 20<sup>th</sup> century alterations. It is constructed of red brick, with some grey headers. The rear elevation is plastered. The listed building has a distinctive double gabled 'M' roof form. It also has a two storey rear projection, which the listing description refers to as Victorian, although the appellant considers that it could be Edwardian. The two storey rear projection contains traditional, timber framed sash windows on the ground and first floor, which feature historic ironmongery. The building also has a single storey rear projection, which is finished in white weatherboarding. The Council advises that the single storey rear projection was formerly a detached outbuilding, which was linked to the dwelling in the 20<sup>th</sup> century.
8. Based on my site visit and the evidence before me, I find that the listed building's special interest and significance insofar as is relevant to these appeals is derived from its historic and architectural interest as an illustration of 18<sup>th</sup> century, Georgian, domestic architecture. The building's historic fabric, its pitched roofs, the symmetry of the two storey rear projection, use of traditional materials, the legibility of its historic plan form and its pleasing architectural style make important contributions in these regards.
9. The property has evolved over time and this has led to a variety of structures and forms on the rear elevation. The two storey rear projection forms part of the historic evolution of the property and its symmetrical form and large, timber sash windows contribute to the special interest of the listed building.
10. The proposal seeks to erect a 'L' shaped, contemporary, single storey extension, which would wrap around two sides of the two storey rear projection and infill the gap between the single storey and two storey rear projections. While the proposed extension would be set in from the side

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<sup>1</sup> 'Boundary Railings to St Andrews Churchyard' (Ref: 1268982), 'Churchyard Wall to Church of St Andrew' (Ref: 1268749) and 'War Memorial in North Churchyard, Church of St Andrew' (Ref: 1268750).

elevations of the property and not extend as far rearwards as the existing single storey rear projection, it would be wider and out of scale with the two storey rear projection in which it would be attached.

11. The appellant's Heritage Consultant considers that the windows within the two storey rear projection are over-sized and appear awkward. The extent of glazing proposed on the rear of the extension would be larger and out of proportion with the existing fenestration on the property. I appreciate that the use of render and cast iron downpipes would complement the existing building and that the roof could be tied in with the surrounding flashings. I also acknowledge that matters of aesthetic can be highly subjective. However, I find that the proposed extension, by reason of its box like structure, shallow pitched roof and the size and siting of the fenestration would fail to respect the architectural integrity of the listed building. The proposed roof design would also harmfully jar with the generally more traditional roof forms found on the listed building and the proposal would erode the sense of symmetry that the existing two storey projection currently exhibits.
12. Furthermore, I find that the use of powder coated aluminium for the French doors by reason of its use of modern materials would harmfully discord with the more traditional materials found on the listed building.
13. To facilitate access to the new extension, the proposal would result in the loss of the ground floor timber framed, sash windows, which contains historic fabric, including historic ironmongery. The proposal would also require the removal of a number of brick courses below the existing ground floor windows, which would result in the loss of further historic fabric. I appreciate that the appellant intends that the proposal is carried out sensitively, in accordance with conservation good practice. The works would also not impact any Georgian interior features. However, the proposal would result in the loss of historic fabric, which would be harmful to the special interest of the listed building.
14. The proposed extension would obscure part of the historic rear elevation and two storey rear projection. The proposal would result in further incremental extension to the rear of the property, which would erode the legibility and architectural integrity of the listed building.
15. I appreciate that the proposal is modest in size and would be subservient to the listed building. It would also be sited to the rear of the property and not visible in public views. Nevertheless, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether or not public views of the building can be gained.
16. For the reasons given above, I find that the proposal would fail to preserve the special interest of the listed building and would harm the significance of this designated heritage asset.
17. Paragraph 205 of the National Planning Policy Framework 2023 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets and that

any such harm should require clear and convincing justification. Given the nature and extent of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.

18. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.
19. The proposal would provide enhanced and more modern living accommodation. It would also improve the circulation space within the building. However, these are solely private, as opposed to public benefits.
20. The proposal would result in investment into the property, which would have a small economic benefit. The proposal would also improve the energy efficiency of the dwelling, which would be an environmental benefit. These factors carry limited weight in favour of the proposal as public benefits.
21. There is no compelling evidence before me to suggest that the use of the building as a residential dwelling would cease in the absence of the proposal. Consequently, I do not find the proposal necessary to secure the viability and long-term conservation of the building. There is also no substantive evidence before me that the proposal is necessary in order to secure the optimum viable use of the asset.
22. Overall, there would be limited public benefits from the proposal. Consequently, in attributing considerable importance and weight to the identified harm to the significance of the designated heritage asset, I find that there would be insufficient public benefits arising from the proposal to outweigh this harm.
23. Given the above, I conclude that, on balance, the proposal would fail to preserve the special interest and significance of the listed building and would fail to satisfy the requirements of the Act and the historic environment protection policies of the Framework. The proposal would also conflict with Policies HA1, HA7, HOU11 and DES4 of the East Herts District Plan October 2018. These policies among other things require that development proposals preserve and where appropriate enhance the historic environment; sustain and enhance the significance of listed buildings; not have any adverse effect on the architectural and historic character or appearance of the building; and are of a high standard of design, which is appropriate to the character and appearance of the dwelling.

### **Other Matters**

24. The appeal site lies within the Hertford Conservation Area (CA). Both parties agree that the proposal would not harm the significance of the CA. Nevertheless, I have had special regard to the desirability of preserving or enhancing the character or appearance of the CA in my decision. Despite the harm that would be caused to the listed building, I do not find that the proposal would be detrimental to the character or appearance of the CA. This is because the proposal would not be visible from the public domain and would only have limited prominence from the private domain. Under such

circumstances case law<sup>2</sup> has established that proposals must be judged according to their effect on a CA as a whole and must therefore have a moderate degree of prominence. Given the above, I find that the proposal would not be detrimental to the CA and thus preserve its significance.

25. The appellant refers to extensions and alterations to listed buildings and contemporary developments in the locality. However, there are limited details before me of the other schemes. Nevertheless, I am required to determine these appeals on their own merits.

### **Conclusion**

26. For the above reasons and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

*A James*

INSPECTOR

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<sup>2</sup> South Oxfordshire DC v SSE & J Donaldson [1991] CO/1440/89

## Appeal Decisions

Site visit made on 3 September 2024

**by A James BSc (Hons) MA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 September 2024**

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**Appeal A: APP/J1915/W/24/3343771**

**59 High Street, Ware SG12 9AB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Marlborough Opportunities Ltd against the decision of East Hertfordshire District Council.
  - The application reference is 3/23/2460/FUL.
  - The development is described as 'replacement windows and doors to front elevation - part retrospective.'
- 

**Appeal B: APP/J1915/Y/24/3343765**

**59 High Street, Ware SG12 9AB**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Marlborough Opportunities Ltd against the decision of East Hertfordshire District Council.
  - The application reference is 3/23/2461/LBC.
  - The works are described as 'replacement windows and doors to front elevation - part retrospective.'
- 

### Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### Preliminary Matters

3. As the appeal site lies within a conservation area (CA) and relates to a listed building, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. The appeal scheme is described as 'part retrospective'. However, the doors and windows have already been installed. Appeal A is therefore retrospective. It is not possible to apply retrospectively for works to a listed building. Appeal B therefore seeks retention of the works. The windows do

not require listed building consent, as 59 The High Street (No 59) is not a listed building.

### **Main Issues**

5. The main issues are whether the retention of the windows and doors preserve a Grade II\* listed building, known as 'Numbers 61, 61A, 61B and 63 including doorway to Number 59 (not included), 61 61A 61B 63, High Street' (the listed building) (Ref: 1237718) and any of the features of special architectural or historic interest that it possesses; and, whether the appeal scheme preserves or enhances the character or appearance of the Ware Conservation Area (CA).

### **Reasons**

6. The listed building comprises of a small complex of buildings, which include 2 former inn sites, with interlocked subdivisions. The listed building is part early 15<sup>th</sup> century, with 17<sup>th</sup>, 18<sup>th</sup> and 19 century alterations. It is two storeys high and has a timber frame, jettied first floor, tiled roof and plaster finish. The ground floor of No 61 contains a carriageway, which has a mid-20<sup>th</sup> century infill and forms the entrance to the appeal property. While the doorway to No 59 does not form part of the listed building, it is attached to the listed building; hence the requirement for listed building consent.
7. Based on my site visit and the evidence before me, I find that the listed building's special interest, insofar as is relevant to these appeals is derived from its historic and architectural interest, as an illustration of 15th century architecture. The building's timber frame, jettied first floor, surviving historic fabric, use of traditional materials and its pleasing architectural style and design all make important contributions in these regards.
8. The appeal property is a three storey building. It has recently been converted from a bank into residential and office use. While the Council refers to No 59 as a non-designated heritage asset, the appeal site lies within the CA, which is a designated heritage asset.
9. The CA covers a large part of the town, including its commercial centre and a section of the River Lea. The significance of the CA insofar as is relevant to these appeals is derived from its diverse range of high quality historic buildings, which include commercial, residential and industrial architecture and historic marketplaces, which signify the town's evolution as a historic market town. The appeal property by reason of its architectural design and detailing is of historic interest and makes a positive contribution to the character and appearance of the CA. This contribution is recognised by the designation of No 59 as an 'unlisted building to be protected from demolition' within the Ware Conservation Area Appraisal and Management Plan July 2016.
10. The appeal property occupies a prominent position on the High Street and its front elevation, including its windows and doors are highly visible from the public realm. The former windows by reason of their traditional character, high quality materials, intricate detailing and the depth of the reveals made a positive contribution to the significance of the CA. The former door was of

no architectural significance and detracted from the character and appearance of the CA and the special interest of the listed building.

11. The appeal scheme seeks to retain the recently installed windows and doors. The appellant advises that the windows are a replica of the previous windows. However, it is clear from the evidence before me that the replacement windows are chunkier in appearance and this changes the proportions of the frames and harmfully erodes the intricate detailing, which was present on the former windows. The windows also lack the depth of reveals that the previous windows exhibited. The replacement windows by reason of their use of modern materials, chunkier profile and relatively flush appearance have a far more modern appearance than the historic windows and are out of keeping in the historic environment.
12. The appellant advises it would be possible to replicate the previous recessed appearance of the fixed lights and casements by adding planted on beading in hardwood. Based on the information before me, I do not find that this would adequately address the proportions of the windows, neither would it replicate the previous window material.
13. The previous doors had a steel frame and concrete surround and were heavily glazed. Given the extent of glazing, they appeared relatively lightweight and were not a prominent feature within the CA. The previous doors were also not dissimilar from other doors that I observed on commercial properties within the CA.
14. The replacement doors are 3 panel doors, with raised and fielded panels and a fanlight above, which is divided into 3 by non-structural glazing bars. The doors have been spray painted with a matt colour, which is not dissimilar to the colour of the joinery on the listed building. Nevertheless, the replacement doors are far more solid in appearance than the previous doors and utilise modern materials, which appear harmfully discordant within the historic environment. The provision of stuck on glazing bars also fails to respect the historic environment and the special interest of the Grade II\* listed building.
15. I acknowledge that the Council considers that the replacement doors are an improvement over the previous doors. However, I find the replacement doors, by reason of their more prominent appearance and starkly modern materials fail to preserve the special interest of the listed building and the significance of the CA.
16. Consequently, the scheme fails to preserve the special interest of the Grade II\* listed building and the significance of the CA, which derives much of its significance from the traditional architectural detail of the buildings within it.

## **Public Benefits**

17. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm requires clear and convincing justification. Given the nature and extent of the scheme, I find the harm to



be less than substantial in this instance but nevertheless of considerable importance and weight.

18. Where a scheme leads to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the scheme, including, where appropriate, securing the asset's optimum viable use.
19. The investment into the property has a small economic benefit, which carries limited weight in favour of the scheme as a public benefit. The scheme improves the energy efficiency of the building, which is an environmental benefit. The appellant also considers the scheme provides improved office accommodation and more secure living accommodation. However, there is no compelling evidence before me why similar benefits could not be achieved through an alternative, less harmful scheme that better respects the historic environment. There is also no substantive evidence before me that the scheme is necessary in order to secure the optimum viable use of the asset.
20. Overall, I give limited weight to the public benefits of the scheme. Consequently, in attributing considerable importance and weight to the identified harm to the significance of the designated heritage assets, I find that there would be insufficient public benefits arising from the scheme to outweigh this harm.
21. Given the above, I conclude that, on balance, the scheme fails to preserve the special historic interest and significance of the Grade II\* listed building and the significance of the CA. The scheme fails to satisfy the requirements of the Act and paragraph 203 of the Framework. The scheme also conflicts with Policies DES4, HA1, HA4 and HA7 of the East Herts District Plan October 2018 (the District Plan) and Policy W3 of the Ware Neighbourhood Plan. These policies among other things require that schemes: are of a high standard of design; preserve and where appropriate enhance the historic environment; preserve or enhance the special interest, character and appearance of the CA; use materials and adopt design details which reinforce local character and are traditional to the area; retain historic features, including windows; and sustain and enhance the significance of listed buildings.
22. As No 59 lies within the CA (which is a designated heritage asset), I do not find that Policy HA2 of the District Plan, which refers to non-designated heritage assets is applicable to this appeal.

### **Other Matters**

23. Any subsequent enforcement action is a matter for the Council and not under consideration as part of these appeals.

### **Conclusion**

24. For the above reasons and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

*A James*

INSPECTOR



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## Appeal Decision

Site visit made on 3 July 2024

**by Ian McHugh DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 August 2024**

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**Appeal Ref: APP/J1915/D/24/3342357**

**56 Fanhams Road, Ware, Hertfordshire, SG12 7DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Stuart Bailes against the decision of East Herts Council.
  - The application Ref is 3/23/2482/HH.
  - The development proposed is extension over single-storey side/rear extension and erection of front porch.
- 

### Decision

1. The appeal is allowed and planning permission is granted for an extension over single-storey side/rear extension and erection of front porch at 56 Fanhams Road, Ware, Hertfordshire, SG12 7DL in accordance with the terms of the application, Ref 3/23/2482/HH, subject to the following conditions:
  - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No:080/CAR/OS; and Drawing No:56/FAN/001 Rev A.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of both the existing dwelling and the streetscene.

### Reasons

3. The appeal property is a semi-detached two-storey dwelling, which is situated within a residential estate. Most of the properties date from the 1950's and the surrounding area contains a mix of semi-detached and terraced housing. Several properties have been altered and extended since they were originally built.
4. The appeal property has a staggered flat roofed single-storey side/rear section, which is set-back behind the front wall of the dwelling. The proposal is to build above this part of the building to create an additional bedroom and shower room. In addition, a small porch is proposed at the front. The roof of the first-

floor extension would have section of flat roof, this would not be readily visible from ground level.

5. The Council considers that the first-floor extension would result in a convoluted, bulky and dominant addition to the property. It concludes that this part of the proposal would conflict with Policies DES4 and HOU11 of the East Herts District Plan 2018 (DP). These policies seek (amongst other things) to ensure that the design of new development is of high quality and that alterations and extensions to dwellings are appropriate to the character, appearance and setting of the existing property. Policy HOU11 also requires extensions to be subservient to the existing dwelling.
6. The above policies are consistent with the provisions of paragraph 135 of the National Planning Policy Framework 2023, which states (amongst other things) that development should add to the quality of the area and be visually attractive.
7. Whilst I acknowledge that the shape of the extension has meant that the roof design is somewhat complex, the graphic material, that has been submitted as part of the appeal, shows that the proposed first-floor addition would integrate successfully with the existing dwelling. The highest part of the roof would appear significantly lower than the highest part of the main roof and its hipped construction would match the existing dwelling. Furthermore, although the first-floor extension would be clearly visible from Fanhams Road, it would be set-back from the frontage, which would reduce the impact of the development on the streetscene.
8. Regarding the proposed front porch, this would be a relatively minor addition to the property. It would also reflect the characteristics of the existing dwelling in terms of its roof design and external materials.
9. For the above reasons, I consider that the proposal would not have an adverse effect on the character or appearance of either the existing dwelling or the streetscene and it would not conflict with the relevant provisions of the DP, as referred to above.

### **Conditions**

10. The Council has suggested conditions in the event of the appeal being allowed. In addition to the standard conditions relating to the time for commencement and the listing of the approved plans, a condition is also imposed requiring the use of matching external facing materials. This is necessary to ensure a satisfactory external appearance.

### **Conclusion**

11. For the reasons given above, it is concluded that the appeal be allowed.

*Ian McHugh*

INSPECTOR





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## Appeal Decision

Site visit made on 3 July 2024

**by Ian McHugh DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 August 2024**

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### **Appeal Ref: APP/J1915/D/24/3342761 25 Hampden Hill, Ware, SG12 7JX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Rodrigo against the decision of East Herts Council.
  - The application Ref is 3/23/2486/HH.
  - The development proposed is a first-floor side extension above garage, single-storey rear extension, garage conversion, replace garage door with new front window and brickwork, and brick up side door.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is the effect of the proposal on the character and appearance of the streetscene.

### **Reasons**

3. The appeal property is a semi-detached two-storey dwelling, which is situated in a small residential cul-de-sac. In the vicinity of the site, the dwellings vary in terms of their size and appearance. It is also clear that other properties have been extended and altered. The extensions include two-storey/first-floor side additions.
4. The proposal is to construct a first-floor flat-roofed extension above an existing attached flat-roofed garage. In addition, the proposal includes a single-storey rear extension that would be constructed across the full width of the dwelling and garage. The garage would be converted into a kitchen and other works include the replacing the garage door with a window and the bricking up of a side door.
5. Policy DES4 of the East Herts District Plan 2018 seeks (amongst other things) to ensure that the design of new development is of high quality. In addition, Policy HOU11 states that flat-roofed extensions will be refused, other than in exceptional circumstances. The Council refers to Policy W2 of the Ware Neighbourhood Plan, which also requires high quality design and for development to enhance local character.
6. The above policies are consistent with the provisions of paragraph 135 of the National Planning Policy Framework 2023 (The Framework), which states

- (amongst other things) that development should add to the quality of the area and be visually attractive.
7. The appeal proposal has two main elements, the single-storey rear extension and the first-floor addition above the garage. With regard to the single-storey rear extension, I consider that this would be acceptable in terms of its scale and design. It would only be visible from other rear gardens and there would be no adverse impacts on the occupants of neighbouring properties.
  8. However, although the first-floor extension would be set-back from the road and its flat roof would contribute to the subordinate appearance of the extension, I consider that it would be a discordant and incongruous addition to the property, because of its roof design. The extension would also be clearly visible from Hampden Hill and, therefore, it would have an adverse impact on the streetscene.
  9. The Council has stated that the proposal would create a terracing effect, which would be harmful. However, there would still be a gap remaining at first-floor level between the side wall of the extension and the side wall of the neighbouring property. Consequently, the proposal would not create a terrace. Nevertheless, that does not outweigh my concerns expressed above regarding the flat-roofed design.
  10. In reaching my decision, I have considered the fact that there are other extensions visible along Hampden Hill, including at numbers 28, 31 and 35. However, the design of these extensions, which include pitched-roofs do not adversely affect the character or appearance of the host dwellings in the same way.
  11. Consequently, I consider that the first-floor extension would be unacceptably harmful to the character and appearance of both the existing dwelling and the streetscene. It would, therefore, conflict with the relevant Development Plan policies and with The Framework, as referred to above.
  12. I have given consideration as whether I could issue a split-decision. However, as both the extensions involve the existing garage structure, I have decided against this.

### **Conclusion**

13. For the reasons given above, it is concluded that the appeal be dismissed.

*Ian McHugh*

INSPECTOR



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## Appeal Decision

Site visit made on 10 September 2024

**By Terrence Kemmann-Lane JP DipTP FRTPI MCMi**

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

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**Appeal Ref: APP/J1915/D/24/3345146**

**White Cottage, Aspenden Road, Buntingford, SG9 9PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Emma Bennett against the decision of East Hertfordshire District Council.
  - The application Ref is 3/24/0043/HH.
  - The development proposed is the demolition of garage and barn. Erection of two storey rear extension and single storey side extension with 8 rooflights. External alterations and alterations to driveway
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of garage and barn. Erection of two storey rear extension and single storey side extension with 8 rooflights. External alterations and alterations to driveway at White Cottage, Aspenden Road, Buntingford, SG9 9PA, in accordance with the terms of the application, Ref 3/24/0043/HH, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plans, drawing Nos. 0401 B, 0402 B, 0404 B, 0405 B, 0406 B, 0407 B and 403 B.
  - 3) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form and plans.

### Main Issues

2. The main issues in this case are: i) the effect of the proposal on the character and appearance of the existing dwelling and streetscene; ii) the effect of the proposed 2-storey rear extension on the neighbouring property at No.12 Fairfield on outlook from its rear windows, and in terms of a sense of enclosure.

### Reasons

3. White Cottage is a long building that has its main axis at right-angles to the road, on an east-west orientation. The first and major part of the dwelling is 2-storey, and it then drops down to a 'barn' which is single-storey. Beyond the barn and to the south is a double garage. Both the barn and the garage would

- be demolished. From Aspenden Road, the cottage has a tall narrow elevation, under a gabled roof.
4. Immediately to the north of the dwelling is the garden amenity space of No.12 Fairfield and immediately to the east is the garden amenity space of No.14 Fairfield. To the south of the site is a dense hedgerow and trees, which border the site and a new housing development known as 'Keepers Chase'. There is a large dwelling, that forms part of that development, within close proximity to the site. Aspenden Road is predominantly bordered by trees and rear gardens to the north and the Watermill industrial site to the west.
  5. The policies of the East Herts District Plan, adopted in October 2018, that are relevant to this case, are Policy HOU11 and Policy DES4. These policies will be known to the parties, and therefore need not be set out in full. Policy HOU11 dealing with extensions and alterations to dwellings, etc, sets out criteria against which proposals will be considered, dealing with size, scale, mass, form, siting, design and materials in relation to the existing dwelling. First-floor extensions should maintain appropriate space with the boundary with the neighbour, generally a space of 1m should be the minimum. Dormers should be limited in size and proportion so as not to dominate the roof.
  6. It is only the first part of Policy DES4 that is applicable here. This requires that development must be of high standard of design and layout to reflect and promote local distinctiveness, which should respect or improve upon the character of the site and the surrounding area, in terms of its scale, height, massing (volume, shape), orientation, siting, layout, density, building materials (colour, texture), landscaping, etc.
  7. I have already noted that the elevation of the existing cottage, facing the road, is tall and narrow; as such it is something of an anomaly in the area. The proposed single storey extension on its north side and the wider 2-storey extension at the eastern end would both give the frontage a more balanced form. The fact that the 2-storey extension is set well back from the road and has a lower ridge height ensures that it would be seen as subservient to the existing cottage. The external finishes of white render with black composite cladding and grey tiled roof, with a uPVC front door, black aluminium windows and doors, would provide a satisfactory blend of traditional and modern materials. I conclude that the proposals would not be harmful to the character and appearance of the existing dwelling, or the streetscene.
  8. Turning to the effect of the proposed 2-storey rear extension on the neighbouring property at No.12 Fairfield, the respective ground levels are of some importance. Ground level of No.12 is some 1.32m higher where its rear extension sits on the other side of the property boundary with the proposed 2-storey extension on the appeal site. The proposed 2-storey extension would be about 1.3m from the boundary, whilst No.12's rear extension is within close proximity to this boundary. The pitch roof of No.12's rear extension would be slightly higher than the ridge of the proposed 2-storey extension, so that the latter would have little greater effect on the outlook from the first floor rear windows of No.12 than its own extension. The proposed single storey extension, with a mono-pitched roof would have no deleterious effect on the private garden of No.12, nor would the totality of the proposed extensions to White Cottage bring a harmful sense of enclosure to that garden. There would be no overlooking or loss of privacy.



### **Conclusion**

9. I have taken account of all other matters raised, including the concerns raised about construction works in close proximity to the shared boundary, and difficulty of clearing gutters and general maintenance. These are civil rather than planning matters. I have concluded that the appeal proposals would not be harmful to the character and appearance of the existing dwelling, or the streetscene, and that there would be no substantial harmful effect of the proposed 2-storey rear extension on the neighbouring property at No.12 in respect of outlook from its rear windows, or through a sense of enclosure. For these reasons I will allow the appeal.

### **Conditions**

10. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested 2 conditions in the event that the appeal is upheld. These are that the development should be carried out in accordance with the plans and that the materials should be as specified on the application form and plans. These conditions are necessary for certainty and the avoidance of doubt, and to ensure the satisfactory appearance of the development.

*Terrence Kemmann-Lane*

INSPECTOR



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## Appeal Decision

Site visit made on 22 July 2024

**by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**  
an Inspector appointed by the Secretary of State

**Decision date: 23 August 2024**

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**Appeal Ref: APP/J1915/D/24/3342719**  
**8 Moat Side Anstey Buntingford SG9 0DD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr C Bullen against the decision of East Hertfordshire District Council.
  - The application Ref is 3/24/0155/HH.
  - The development proposed is Removal of rear canopy roof and conversion of loft to habitable space with 2 rear dormer windows and 2 front rooflights..
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### Decision

1. The appeal is dismissed.

### Application for costs

2. 1. An application for costs was made by Mr C Bullen against East Hertfordshire District Council and this is the subject of a separate Decision.

### Main Issues

3. The main issue is the effect of the development on the living conditions of future occupiers of the host dwelling and upon the Anstey Conservation Area and Red Stack which are designated heritage assets.

### Reasons

4. Anstey is a small village dating from the medieval period that, despite subsequent insertions of housing groups, largely retains a quiet rural character with hedged boundaries and treed verges. No.8 Moatside (No.8) is a one-bedroomed semi-detached bungalow dating from the mid-late twentieth century which sits within a group of 3 similar bungalow pairs. These are arranged in an L-shape around an open grass area and abut the shared boundary with Red Stack, a listed detached dwelling.
5. The proposal would incorporate the existing roof void of No.8 into the living space; a bathroom and an additional bedroom, involving the introduction of two dormer windows into the rear roof slope which abuts a shared boundary with Red Stack. The proposal is similar to a previous refused proposal<sup>1</sup> but with two main changes; the specification of non-openable obscured glazing to both of the proposed rear facing dormers to prevent overlooking of the neighbouring garden and the insertion of two rooflights to the front roof slope to mitigate the effect of that change.

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<sup>1</sup> 3/23/2214/HH

6. The rooflights, which were not proposed in the preceding application, would provide ventilation to the bedroom and a view of (at least) sky overhead such that the bedroom dormer need not have openable lights. Although obscured glazing does not transmit light as efficiently as clear glass, there would nevertheless be ample daylight and acceptable outlook available to users of the bedroom.
7. In addition No.8 has two main rooms at ground level which enjoy adequate outlook, and that would be improved by the insertion of full height opening doors. As I have found there to be adequate provision in that regard there would be no conflict with the development plan or national guidance; and living conditions for occupiers would not be unacceptable.
8. Turning to the effect of the proposal on designated heritage assets, almost all of the village, including Moatside and the surrounding properties fall within the Anstey Conservation Area (ACA). However, the 2019 ACA character appraisal does not express reasons for the inclusion of Moatside in the ACA. I consider that the part of the ACA which includes the appeal site and its neighbours have a character and appearance that is anomalous to, but well separated from, the surrounding parts of the ACA notwithstanding its location between a scheduled monument to the south-west and Red Stack to its north-east, a Grade II listed 17th century timber-framed private house with a large private garden.
9. The Council suggest that the flat-roofed design would have a harmful effect upon the ACA and the setting of Red Stack. Whilst my observations of the appeal site and its setting outlined above are that minor alterations such as (but not necessarily limited to) those proposed would be unlikely to be harmful to the overall character and appearance of the ACA, that is not my conclusion with regard to the effect of the proposals upon Red Stack. I noted from my inspection that its spacious, well-enclosed garden provides a setting that tends to isolate this heritage asset from the remainder of the village and conclude that this sense of seclusion and separation is an important contributor to its significance as a historic building.
10. Although the existing brown concrete pantile roof of No.8 can be seen from the rear garden of Red Stack, the subdued colour means it has little visual impact due to its position within the treed boundary, however, the proposed flat-roofed dormer window(s) would introduce an intrusive architectural element, by virtue of colour, shape and, at night, a potential light source in an otherwise dark environment. I acknowledge that the appellant suggests the intervening distance and vegetation points to the impact of the dormer not being significant however that does not account for the intrusive impact of the proposal upon an otherwise separate and secluded setting. Notwithstanding the measures to prevent overlooking, the presence of windows themselves would generate a perception of intrusion into the near-absolute seclusion of this historic building which would undermine its appreciation as a remnant of rural settlement patterns.
11. Although altered, Red Stack is plainly a building of significant age and evident historic value which contributes to the understanding of a settlement pattern with medieval origins. I consider, whilst the insertion of the dormers proposed might be of little importance in other circumstances, in this case there would be a minor degree of harm to the significance of this heritage asset by introducing an awareness of more recent development within the Conservation

Area that would otherwise not be evident when experiencing this heritage asset in its primary setting. I therefore find conflict with Policy HA7 of the of the East Herts District Plan 2018 (EHDP) which seeks that development proposals should not have any adverse effect on the architectural and historic character of a listed building or its setting.

12. Although I have found no planning harm arises in relation to the first part of the refusal reason<sup>2</sup> nor have I found harm to the character and appearance of the ACA, this does not outweigh the harm identified and the proposal would conflict with the provisions of the development plan as a whole. The proposal would provide additional accommodation and make the existing one-bedroom accommodation potentially more suitable for a small family rather than one or two people. This stands as a benefit to be weighed in favour of the proposal. However, it is apparent that benefit could be achieved in other ways without the introduction of dormers on the rear roof slope. Consequently, although the matter is finely balanced I have identified that the proposal would cause less than substantial harm to the setting of Red Stack which is a designated heritage asset and in accordance with the general duties set out in the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>3</sup> this attracts considerable importance and weight against the proposal that is not outweighed by any public or other benefit. For these reasons, having considered all matters raised, the appeal cannot succeed.

*Andrew Boughton*

INSPECTOR

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<sup>2</sup> Living conditions for occupiers of No.8

<sup>3</sup> Specifically at Section 66



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## Costs Decision

Site visit made on 22 July 2024

**by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI**  
an Inspector appointed by the Secretary of State

**Decision date: 23 August 2024**

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### **Costs application in relation to Appeal Ref: APP/J1915/D/24/3342719 8 Moat Side Anstey Buntingford SG9 0DD**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr C Bullen for a full award of costs against East Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for Removal of rear canopy roof and conversion of loft to habitable space with 2 rear dormer windows and 2 front rooflights.
- 

### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant for costs points to the behaviour of the Council in introducing a reason for refusal which had not been given on a previous, near-identical planning application. The Council have not submitted any rebuttal.
4. The appeal site lies within a Conservation Area and adjacent to a listed (Grade II) building, with a scheduled monument to the south of Moatside yet, despite the presence of these three designated heritage assets and the general duties consequent<sup>1</sup>, the previous decision was made and published without the benefit of comment from the Council's Conservation Officer, as the Council acknowledge, such that the reason for refusal of that application were limited to issues of impact on neighbour amenity.
5. The applicant for costs, not unreasonably, expected that a second planning application which sought to address the previous reason for refusal by the use of obscured glass, non-opening lights and additional rooflights to the front elevation might be favourably received. However the Council refused this application (Ref 3/24/0155HH) on the basis of new reasons including the substantive impacts upon designated heritage assets as set out in the Conservation Officer's response.
6. The Courts direct that 'unreasonable' should have its ordinary meaning when considering the behaviour of parties and in this case it was the not-

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<sup>1</sup> In particular those set out in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

unreasonable expectation by the applicant that the expense and trouble of a second application should not be confounded by matters which the Council had neglected to address adequately in their first consideration of the proposed development, a proposal which was substantively identical to that which is the subject of this costs application. The applicant was denied the opportunity to consider (and possibly prepare) a design which sought to address legitimate concerns as to the impact on heritage assets and thereby incurred wasted expense in conducting this appeal.

7. In addition, whilst it was not unreasonable for the Council be additionally concerned as to the effect of introducing obscured glazing to the dormer window of the proposed bedroom, the officer report confusingly states: "Whilst 2no. front rooflights are proposed to provide natural light, due to the limited number, size, scale and design they would not be able to provide sufficient natural light compared to a normal window". This fails to acknowledge that the 2 rooflights would be additional to the proposed dormer window (which would itself admit light to a significant degree<sup>2</sup>) or demonstrate an understanding that rooflights set in the plane of a sloping roof will admit significantly more daylight than the equivalent area of glass in a vertical plane. The refusal reason refers to the impact of obscured glazing on living conditions but the Council do not explain what that effect is or how it arises. This part of the refusal reason is inadequately justified.
8. Taking these together, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr C Bullen, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to East Hertfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Andrew Boughton*

INSPECTOR

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<sup>2</sup> notwithstanding their obscured glazing

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# Appeal Decision

Site visit made on 2 September 2024

**by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 September 2024**

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## **Appeal Reference: APP/J1915/D/24/3346475**

### **'Camps Hill Bungalow', North Road, Hertford, Hertfordshire SG14 1NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mrs. G. McGrath against the decision of East Herts Council.
  - The application reference is 3/24/0182/HH.
  - The development proposed is described in the application form as follows: "rear extension, loft conversion with increase of height and internal alteration".
- 

## **Decision**

1. The appeal is allowed and planning permission is granted for "rear extension, loft conversion with increase of height and internal alteration", at 'Camps Hill Bungalow', North Road, Hertford, Hertfordshire SG14 1NE, in accordance with the terms of the planning application (reference 3/24/0182/HH, dated 31 January 2024), subject to the conditions set out in the attached Schedule of Conditions.

## **Preliminary points**

2. A Written Ministerial Statement entitled "Building the homes we need" was published on 30 July 2024, together with a consultation on "Proposed reforms to the NPPF and other changes to the planning system". In this case, however, I am satisfied that they do not materially affect the considerations that have led me to my decision. I am convinced, therefore, that there is no requirement to seek further submissions on these publications and that no party would be disadvantaged by such a course of action.

## **Main issue**

3. The first main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the host building and its surroundings. The second is the effect of the proposed development on the residential amenities of neighbours (whether unacceptable harm would be caused by overbearing appearance or loss of light).

## **Reasons**

4. The appeal site is located in a very closely built up area of Hertford, close to North Road but reached by car more easily from a network of narrow roads at

- Sele Road (which leads to Camps Hill). The area is essentially residential in character but it exhibits a range of dwelling types and designs, including bungalows or chalet bungalows in the vicinity of the appeal site.
5. The dwelling on the appeal site is a modest bungalow, 'Camps Hill Bungalow', set back from its front boundary, with a parking area at the front of the property and built up to its side boundary with 'Hillside' (to the west). It is not closely aligned with its immediate neighbours at 'Hillside' and 'Arrowhead', although these are also set back from the access lane. The appeal site also has a good sized back garden that is at a lower level than the dwelling. There is a terrace at the rear of the bungalow, but the remainder of the back garden is mainly laid to grass, with children's play equipment and other domestic paraphernalia.
  6. The bungalow at 'Camps Hill Bungalow' is rendered, with a pitched roof and is somewhat smaller than its neighbour at 'Hillside' which has been extended at both the front and rear of the basic structure. 'Arrowhead' is also rather larger than the appeal building and the building is finished in a more contemporary style.
  7. It is now proposed that a rear extension should be added to the ground floor of 'Camps Hill Bungalow', adding a first floor and carrying out a rearrangement of the interior. The current design is a revised scheme following an earlier proposal that was dismissed on appeal in September 2023.
  8. The 'National Planning Policy Framework' emphasises the aim of "achieving well designed places" in the broadest sense (notably at Section 12), while making effective use of land and encouraging economic activity. It is aimed at achieving good design standards generally, by adding to the overall quality of the area and being visually attractive and sympathetic to local character and history (while not preventing or discouraging appropriate innovation or change). Nevertheless, it is also recognised that appropriate change may include increased densities. Of course, the aim of achieving good design standards includes protecting existing residential amenities and providing good standards of accommodation in new development.
  9. These basic principles are also to be found in the 'East Herts District Plan' (dated October 2018). In particular, Policy DES4 is a general design policy, concerned with "Design of Development", including extensions to existing buildings. It expects high standards of design, both making good use of land and "respecting or improving upon the character of the site and the surrounding area". It specifically identifies the need to protect neighbours' amenities.
  10. Policy HOU11 deals more specifically with "Extensions and Alterations to Dwellings, Residential Outbuildings and Works Within Residential Curtilages" and it identifies some design criteria, including a provision that "extensions should generally appear as a subservient addition to the dwelling". In this case, however, the finished design would be very different from the existing bungalow and the concept of architectural "subservience" is not helpful in appraising the design.



11. Although the current scheme is similar in some respects to the scheme that was refused planning permission on appeal in 2023, it has been pointed out that there are clear differences between the proposals.
12. The proposed dwelling, when finished, would have a very distinctive character. The building would be approximately square on its ground floor plan, with a pitched roof on four sides, thus creating, in effect, a severely truncated pyramid. The eaves height would be raised (by comparison with the existing bungalow). Bedrooms and bathrooms would be accommodated at first floor level, as a "loft". A flat roof would be created above the first floor, with projecting dormers on the front and rear elevations and rooflights on the side elevations. The architectural detailing and the construction materials would generally be traditional in style, however.
13. The resulting building would be similar in overall height to its immediate neighbours and its apparent bulk in the streetscene would not be untoward in its urban context. The design would be unconventional in some respects and the raised eaves level would be somewhat awkward, but the design would not be inherently unacceptable, nor so discordant that it ought not to be permitted. The architectural character of the area is varied and the building would not be out of place, nor visually intrusive. By contrast, the scheme that was previously dismissed at appeal included unattractive and oppressive flank elevations, as well as a prominent front gable extension, that no longer form part of the design.
14. The redesigned roof structure would also have a much reduced impact on the neighbouring property at 'Hillside'. The flank wall would be topped by a parapet on the boundary and, above that, a pitched roof sloping away from the boundary. The length and height of the wall on the boundary would not be excessive. I have also noted that rooflights on the side elevations would be sited to avoid overlooking (in accordance with the drawings submitted with the application and appeal). The effect on 'Arrowhead' would be even less and I am convinced that the residential amenities of neighbours would not be unduly harmed, either as a result of the new extension having an overbearing appearance or by its causing an unacceptable loss of light. Nor would it give rise to significant overlooking, in the urban context.
15. Evidently, the appeal site lies within an established urban area, which is "sustainable" in planning terms, and the finished project would enjoy the benefit of a reasonable plot with a good sized back garden and adequate parking space in front of the dwelling. The proposed extension would be a useful addition to the accommodation at 'Camps Hill Bungalow' and the contribution that the appeal scheme would make to the provision of residential accommodation in the locality, even though it would be limited, weighs in favour of the appeal.
16. In reaching my decision, I have had regard to the decision that was made in the previous appeal, with which I concur. I accept, however, that significant revisions have been made in the current design and I have considered this appeal on its own merits.
17. I have concluded that the project would not be in conflict with the Development Plan, in principle and I am persuaded that the scheme before me can properly

be permitted, subject to conditions. Although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

18. I have, however, also considered the need for conditions and, in imposing conditions, I have taken account of the conditions suggested by the Council in the usual way (without prejudice to their main arguments in the appeal), subject to modifications necessary, in my opinion, in the interests of clarity and enforceability. I have concluded that conditions are necessary, to define the planning permission and to ensure that quality is maintained.

*Roger C. Shrimplin*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:
  - drawing number 3856-23A1-01 (Existing Plans, Elevations and Section);
  - drawing number 3856-23A1-02 Rev E (Proposed Floor Plans);
  - drawing number 3856-23A1-03 Rev F (Proposed Elevations and Section);
  - drawing number 3856-23A4-04 Rev F (Location Plan);
  - drawing number 3856-23A4-05A (Site Plan);
  - drawing number 3856-23A1-103 Rev A (Proposed Elevations and Section).
3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.



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## Appeal Decision

Site visit made on 10 September 2024

**By Terrence Kemmann-Lane JP DipTP FRTPI MCI**

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

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**Appeal Ref: APP/J1915/D/24/3346232**

**Orchard House, Westmill, Buntingford, SG9 9LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr D Goodson against the decision of East Hertfordshire District Council.
  - The application Ref is 3/24/0570/HH.
  - The development proposed is the demolition of garage and erection of double garage.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of garage and erection of double garage at Orchard House, Westmill, Buntingford, SG9 9LL in accordance with the terms of the application, Ref 3/24/0570/HH, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

### Main Issues

2. The main issues in this case are: i) the effect of the proposal on the listed building and the Westmill Conservation Area, and the effect on the character and appearance of the site and that of the surrounding streetscene; and ii) whether the proposal would retain existing landscape features of heritage, amenity and/or biodiversity value, and protect and enhance these features.

### Reasons

3. The site is occupied by a two-storey detached dwelling with white rendered elevations, a clay tiled hipped roof having a number of dormers, white timber windows and some exposed brick. The single detached garage follows the same materials palette with a white metal garage door and a dual pitched roof. It is on a generous plot, located within Westmill, in close proximity to the village green. It has front landscaping and hardstanding and rear amenity space. The land levels slope downwards from the highway towards the dwelling. The garage adjoins the detached neighbouring garage at the Grade II Listed Building 'Old Thatch'. Generally the surrounding area is residential in character
4. The proposed garage would be positioned to the opposite side of the site to the existing. It would be positioned forward of the dwelling, on the southern boundary and set back from the front boundary by approximately 4.9 metres. It would be a single-storey structure with a hipped roof with rear catslide. The

proposed garage would be constructed on a low brick plinth, with black feather edge cladding, slate roof and a timber garage door.

5. The site is located within the Westmill Conservation Area. There is a statutory duty under Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) to ensure that development proposals preserve or enhance the character or appearance of the Conservation Area. Policies HA1 and HA4 of the East Herts District Plan carry these obligations at the local level. In addition Section 66 of the Act states that the planning authority shall have "special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses." The site is adjacent to two Grade II Listed Buildings at Old Thatch and Archers Hall and is opposite a Grade II Listed K6 Telephone Kiosk on Aspenden Lane.
6. Policy HA1 aims to preserve and where appropriate enhance the historic environment of East Herts. Development proposals that would lead to substantial harm to the significance of the heritage asset will not be permitted unless it can be demonstrated that the harm or loss is necessary to achieve a substantial public benefit that outweighs the loss.' Policy HA4 aims to preserve and enhance the Conservation Area; proposals should be of a scale, proportion, form, height, design and character that compliments the surrounding area and, in the case of extensions, be complementary and sympathetic to the parent building.
7. The Westmill Conservation Area Appraisal (CAA) describes the general character of the Conservation Area: *Westmill's character is particularly defined by small scale open spaces that envelop the historic core and which are separate from the open countryside beyond. Trees predominate with some particularly fine rows and an avenue.'*

The effect of the proposal on the listed building and the Westmill conservation area, and the character and appearance of the site and that of the surrounding streetscene.

8. Orchard House and its setting play an important role within the overall landscape and visual character of the conservation area; its large front façade is prominent within the street scene. Within the boundary of Orchard House, the CAA identifies important trees to be protected. Immediately beyond the south-eastern boundary of the site, there are views towards the adjoining property at Minstrel Cottage, which is of a distinct traditional character and again appears prominent within the conservation area.
9. The demolition of the existing garage would not impact upon the character and appearance of the conservation area. Potentially it's demolition could open up views of the attractive old clay tilling on the sizeable garage building of Old Thatch and would reveal further portions of the listed building's, elevations, and therefore would enhance the character of the conservation area and the setting of the listed building.
10. The proposed new garage would be positioned such that, although set at a lower level, views towards the adjacent Minstrel Cottage would be obstructed when looking across the paved forecourt of Orchard House. However, as progressing south-east towards the open countryside, Minstrel Cottage would immediately be revealed. The materials of the proposed garage would respect

those of Minstrel Cottage, particularly the black brick plinth, slate roof and the black feather edge cladding which would respond to the black exposed timbers of the cottage.

11. Both Orchard House and Minstrel Cottage have no special status as shown on the Westmill CAA. Whilst the garage would be set forward of the house, there are other examples in the area of garages and other outbuildings having a similar relationship to the building that they relate to, and as is quite common in historic villages generally. It does not justify refusing planning permission.
12. Opposite Old Thatch is Sissons, a listed building and opposite Orchard House are the non-listed, but protected from demolition, School Cottages. Between these is the listed telephone kiosk. I consider that the proposed garage would have a neutral effect on the listed buildings and kiosk and their setting, and on the locally identified buildings. Furthermore, it would preserve or enhance the character or appearance of the Conservation Area. There would be a loss of some vegetation on the site, but a condition could require a scheme of planting to offset this. I also consider that it would be seen as subservient to Orchard House, and would soon settle into the streetscene. It would not be harmful to the character and appearance of the site and that of the surrounding streetscene.

Would the proposal retain existing landscape features of heritage, amenity and/or biodiversity value, and protect and enhance these features.

13. The proposed garage would be constructed on an area of soft landscaping where the boundary hedge is currently located. The plans indicate that a section of the hedge would be removed to accommodate the garage. This boundary hedge is an attractive green feature on the site boundary. I have not been provided with any details of existing landscape features of heritage, amenity and/or biodiversity value. I have already noted that a scheme of planting could be required by way of a condition, which could increase landscape and biodiversity value.

### **Conclusion**

14. For the reasons that I have given, the proposed garage would have a neutral effect on the listed buildings and their settings and the character or appearance of Westmill Conservation Area would be preserved or enhanced. In addition, there would be no harmful effect on the character and appearance of the site and that of the surrounding streetscene, subject to a condition for landscape planting. Whilst I have not been provided with existing landscape features of heritage, amenity and/or biodiversity value, I consider that this matter can be dealt with by the condition mentioned. Indeed, the council has suggested landscaping conditions should the appeal be allowed. Having taken account of all matters raised, I conclude that the appeal proposal would be in accordance with the policies that I have referred to above. The appeal will be allowed.

### **Conditions**

15. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance. The conditions suggested are to control the details of the materials to be used in the construction of the garage and to

have a landscaping scheme and its implementation carried out. These are necessary to ensure good design and to ensure the establishment and maintenance of a reasonable standard of landscaping.

16. The suggested condition for materials is written in the form of a restriction that only below ground construction works can be commenced before the materials are approved. This is necessary because the details of the above ground materials must be agreed before they begin to be used. This would not prevent the earlier start on the demolition of the existing garage.

*Terrence Kemmann-Lane*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
- 3) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted to the Local Planning Authority and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
- 4) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

End of Schedule



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## Appeal Decision

Site visit made on 10 September 2024

**By Terrence Kemmann-Lane JP DipTP FRTPI MCMi**

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

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**Appeal Ref: APP/J1915/W/23/3334648**

**Land to the rear of Nos.74, 75 and 76 Magnaville Road,  
Bishops Stortford, CM23 4DW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Edmunds, Banks and Munro against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/0775/FUL.
  - The development proposed is the change of use of land to residential curtilage and erection of a 1.8 metre height fence (set in by 1.5 metre) and with managed peripheral landscaping.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are: i) the effect of the proposed development on the character and appearance of the street scene and wider area; and ii) whether it would retain, protect or enhance biodiversity and green infrastructure.

### Reasons

3. The appeal site is located within Thorley Park that was developed as a major urban extension of Bishop's Stortford in the 1970's and 1980's. As a result, the layout of the area includes routes and the provision of green spaces connecting parts of the development to the town centre and to the Thorley District Centre. The appeal parcel of land is bounded to the north and east by boundary fencing of the rear gardens of detached and semidetached properties on Magnaville Road which are set within well-proportioned if modest plots. To the west of the site are three parking spaces and to the south is a public footpath that extends in an east-west direction and links into a public right of way (Bishop's Stortford 27), which is located to the west of the site. To the south of the site is a cluster of two storey blocks of flats which are located within an open, spacious landscaped setting.
4. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The most important policies in relation to this proposal are contained in the East Herts District Plan (EHDP), adopted in October 2018, and the Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central,



South and part of Thorley (First revision) 2021-2033 (NP). The most relevant policies referred to in the representations are Policy HOU12, Policy DES3, Policy DES4, Policy NE4 of the EHDP and Policy GIP5 of the NP. These policies are well known to both parties, so that I need not set out the detail here.

5. For the appellants it is explained that the proposal has been led by one individual (the resident of No.76) who took the view early on in the process that she would seek planning permission in the first instance prior to spending time on approaching all of the residents of 71 to 76. The red line is drawn around the totality of the land for which the change of use is sought. The garden extension would be a logical southern extension of each of the domestic curtilages. It is also explained that the residents have had to assume some form of informal control of the land and have paid for dead and diseased trees to be felled and taken away and have spent a significant period of time clearing up dumped rubbish and litter.
6. It is argued that the benefits of larger rear gardens apply to the run of properties from no. 71 to 76, which currently mainly have small front gardens and postage stamp size rear gardens. An increase in size of the small rear gardens would clearly be welcomed by those residents, and an improvement to the quality of the dwellings is supported by planning policy. Whilst these are private benefits, they apply to the whole run of properties: it is not a case of a single isolated individual simply wanting a larger garden, and this should carry weight.
7. Two previous appeal decisions, where land has been taken for development, have been drawn to my attention (references PP/J1915/W/18/3199031 and APP/J1915/W/22/3313455 ). However, I do not know the full background to these decisions and, in any event, each proposal must be considered on its own merits. Therefore I do not find these persuasive.

## **Conclusions**

8. As I saw at my visit, the site includes a grass verge alongside the footpath, with most of the area immediately adjacent to the garden fences being thickly covered with a variety of low mature trees and hedging that would be impenetrable by people and anything but small animals. The grassed area did not show any substantial signs of litter or animal waste, and was attractive as far as the amenity of the public footpath is concerned. The trees and hedging on the site contribute to the landscape character and green infrastructure network within the immediate and wider locality.
9. Although the trees and hedging do not directly connect to other planted areas as would a series of interconnected hedgerows, this small area will be a habitat for small birds and other creatures, which will benefit from the footpath connections to other areas with a variety of habitats.
10. The proposal would result in the enclosure of a valuable area of open landscape amenity space and green infrastructure within an established housing development. The loss of the existing landscaping and erection of new fencing would be harmful to the character and appearance of the streetscene and wider locality. Such landscaped areas are an important characteristic of the Thorley Park estate, often focused on pedestrian routes, parking areas and other communal or public areas. These landscaped areas form part of the wider

green infrastructure network and positively contribute to the landscape character and general amenity of the wider area. The appeal site also provides some habitat for wildlife and has intrinsic biodiversity value as an area of green space within a built-up area.

11. I can appreciate that the proposal would benefit the appellant and her neighbours by enlarging the relatively small rear gardens. But this would be a private benefit, albeit to a number of individual households, that does not outweigh the loss to an important characteristic of the public realm that was part of the overall design of Thorley Park. The proposal would be contrary to the policies referred to above. For these reasons the appeal will be dismissed.

*Terrence Kemmann-Lane*

INSPECTOR



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# Appeal Decision

Site visit made on 12 July 2024

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 9 August 2024**

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**Appeal Ref: APP/J1915/W/23/3329668**

**Morley Hall, Wareside, Hertfordshire SG12 7QP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Anne Audibert against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/0803/FUL.
  - The development proposed is described as subdivision of house to create 2 new flats (whilst retaining the remainder of the property) and replace the garage door with windows and a door, and the creation of new private gardens for the 2 new properties and off-street car parking spaces.
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## Decision

1. The appeal is allowed and planning permission is granted for the subdivision of the house to create 2 new flats (whilst retaining the remainder of the property), and replace the garage door with windows and a door, and the creation of new private gardens for the 2 new flats and off-street car parking spaces at Morley Hall, Wareside, Hertfordshire SG12 7QP in accordance with the terms of the application, Ref 3/23/0803/FUL, subject to the conditions in the attached schedule.

## Procedural Matters

2. It is noted that within the first reason for refusal Policy INT of the East Hertfordshire District Plan (DP) is referenced. This is considered a typographical error as the officer report refers to DP Policy INT1. I have therefore taken the latter into account.

## Main Issues

3. It is acknowledged that Listed Building Consents<sup>1</sup> (The LBCs) have been granted for the specified works to the Grade II listed building known as "Morley Hall and former stables attached on south" (Ref: 1077973) (Known as Morley Hall from here on). Also, that within proximity of Morley Hall is another Grade II listed building known as "Icehouse at Morley Hall 40metres southwest of house" (Ref: 1342254) (the LB2), and a scheduled monument known as "Morley Ponds moated site, Ware" (Ref 1012332) (the SM).
4. Notwithstanding the existing LBCs, within this decision I am required to give special regard to the impact on listed buildings in accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act); and the National Planning Policy Framework (the

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<sup>1</sup> 3/22/2232/LBC and 3/23/0804/VAR

Framework) requires great weight to be given to the conservation of scheduled monuments.

5. Therefore, the main issues are:

- whether the proposal would preserve the significance of Morley Hall and any of the features of special architectural or historic interest that it possesses, and the setting of the LB2 and the SM;
- the effect of the proposed development on the character and appearance of the area; and
- whether the appeal site is a suitable location for the proposed development having regard to relevant policies relating to accessibility.

## **Reasons**

### *Heritage assets*

6. Morley Hall is a large 7 bedroomed residential hall set in extensive grounds. The building is broadly T shaped with stables attached to the rear. This has already been converted to provide additional living space, with only external features of the stables left.
7. It is understood from the appellant's Heritage Statement that the building had relatively modest roots as 2 conjoined 17<sup>th</sup> century cottages. Over time the building has been expanded and remodelled to create a hall within substantial grounds. Significantly the main part of the house was remodelled in the 1960s by Raymond Erith, a classical architect most active between the late 1940s and the 1970s. Therefore, Morley Hall's significance is bedded in the historic fabric of the building and the architectural features related to the 1960s remodel.
8. Within the formal gardens to one side of Morley Hall is the LB2 which dates to the 18<sup>th</sup> century. Its significance lies in it being a good example of an icehouse and, as part of its group value, how an icehouse represents the aggrandising of Morley Hall's status as a residential dwelling.
9. To the front of Morley Hall is the SM which has been designated due to being a well-preserved example of a Hertfordshire moated site. Limited information is known about the SM, but such structures were often used for domestic or religious buildings and so are important for understanding the distribution of wealth and status in the Medieval countryside. This SM appears to have been largely unaffected by later land uses and so there is a high potential that archaeological remains would be preserved.
10. The proposal would constitute internal works and some minor external works to the stables and rear portion of Morley Hall. It would retain the main part of the house as a 5-bedroom dwelling and convert the stables and rear portion into 2 smaller apartments, one with 1 bedroom and one with 2 bedrooms.
11. The proposed internal alterations would be limited to closing off various doorways and archways and could be reversible. The existing garage doors, which would be replaced by a new door and windows, are not historic and the replacements would be sympathetic to the style of this part of the building. Room sizes and layouts would be retained, and the proposal would only alter the potential use of those rooms. The proposal would not impact the main rooms of the house most obviously altered by Erith. Nevertheless, the works

- would require a small amount of historic fabric to be removed and this would constitute less than substantial harm, at the lower end.
12. Due to the very limited impact the proposal would have on the form or use of Morley Hall, in my mind it would not alter the relationship of Morley Hall with the LB2 and the SM. Therefore, the proposal would have a neutral impact on the setting of these 2 heritage assets.
  13. Nevertheless, the lack of impact on the LB2 and the SM does not overcome the less than substantial harm to Morley Hall. Hence, in accordance with paragraph 208 of the Framework, this harm must be weighed against the public benefits of the scheme.
  14. The optimal use of Morley Hall is residential, and the proposal would retain this. However, due to the large size of Morley Hall as a singular family residence there is potential that this use may no longer be viable in the long run. Therefore, to create 2 further residential units whilst still retaining a large well-proportioned dwelling within the main body of Morley Hall, could secure the future optimisation of use and so would constitute a public benefit.
  15. Considering the very low level of less than substantial harm the proposal would have, in this case, it would therefore be outweighed by the public benefits. It is noted a similar conclusion was drawn by the Council in consideration of the LBCs.
  16. Therefore, in compliance with the Act and the Framework. the proposal would conserve the significance of Morley Hall and the features of special architectural or historic interest that it possesses, and would preserve the setting of the LB2 and the SM.

#### *Character and appearance*

17. The Morley Hall estate is located within the countryside but not within the Green Belt. Depending on how you measure the distance Morley Hall is between 0.6km and 0.8km, by country lane, from the village of Wareside.
18. Notwithstanding Wareside, the area beyond the estate is characterised by a patchwork of fields interspersed with traditional farmsteads or small groupings of 2 or sometimes 3 houses.
19. I noted during my site visit that several nearby farmsteads have had outbuildings converted creating further small enclaves of dwellings within the wider bucolic setting. Taking account that the proposal would not significantly increase the capacity of Morley Hall to accommodate people, all be it as 3 separate units rather than 1 large home, the experiential impact such a change would have on the overall character of the area would not be so significant to constitute harm. This is especially relevant within an area where singular large dwellings are less common than small groupings of houses, be that as traditional worker cottages or converted farmsteads.
20. As much of the works would be internal and would represent only minor external alterations, in my mind, the proposal would have no impact on the appearance of the wider area.

21. Therefore, the proposed development would not harm the character and appearance of the area and so comply with DP Policy DES4 insofar as it seeks to protect character and appearance.

#### *Location*

22. DP Policy INT1 is a strategic policy which sets out the overarching presumption in favour of sustainable development and that decisions will revert to the Framework when there are no relevant policies. DP Policy DPS2 sets out the development strategy for sustainable development in the district. It proposes a hierarchy of delivery based around brownfield sites and existing towns and villages. It does not refer to development in the countryside.
23. Nevertheless, DP Policy GBR2 is specifically written to guide development in rural areas beyond the Green Belt. This policy provides a list of uses which will be permitted and point e) provides for the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings) in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area.
24. It has already been shown in the second main issue that the proposal is not considered to harm the character and appearance of the area. Therefore, it is necessary to consider if the appeal site is in a sustainable location. In this instance this would relate to the accessibility of the site. DP Policy TRA1 promotes, amongst, other things that new development should be in places which enable sustainable journeys to be made to key services and facilities.
25. The appeal site's location is in proximity of Wareside. Notwithstanding that access would be down narrow unlit country lanes, the services at Wareside are limited and could not support day to day living requirements. Consequently, it would be necessary for future occupants to travel further afield and this would, in probability, require the use of private vehicles which are considered the least sustainable method of undertaking journeys. The proposal thus fails to comply with DP Policy TRA1 and by association also fails to comply with GBR2.

#### **Other Matters**

26. That the proposal is not considered to harm living conditions, highway safety or the environment is noted. However, a lack of harm is considered neutrally so cannot weigh for or against the proposal.

#### **Planning Balance**

27. The proposal would fail to comply with DP Policies TRA1 and GBR2 due to the accessibility of the appeal site. However, accessibility is only one element of sustainable development<sup>2</sup>. It is also recognised that by their very nature rural areas require residents to rely more heavily on private vehicles and that services are often spread over several villages or locations. By prohibiting any new residential development in such locations, this could ultimately have a detrimental effect on the vitality of rural communities. Therefore, even small numbers of new dwellings can provide economic and social benefits to sporadic rural communities in relation to supporting services and facilities.

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<sup>2</sup> As described in chapter 2 of the National Planning Policy Framework

28. The provision of 2 new dwellings via the repurposing of an existing building already in residential use, would also have a much-reduced environmental impact in relation to construction or implementation costs to new build homes.
29. Therefore, in combination with the effect the proposal would have on ensuring the continued optimal use of the listed building, I find these benefits would outweigh the limited harm identified in relation to accessibility of the site. The proposal would comply with the ethos of the Framework in terms of providing new homes and sustainable development, and DP Policy INT1.

### **Conditions**

30. The Council has suggested several conditions. These have been considered against the appellants comments and the advice in the Framework and Planning Practice Guidance. As a result, I have amended them for consistency and clarity.
31. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
32. Condition 3 and 4 have been imposed to ensure the external development accords with the character and appearance of the building and its immediate setting. Details are not required for approval within condition 3 as the information on the plans is adequate for the external works on the building and details relating to both the internal and external works have been dealt within the extant LBCs.
33. Although it is not necessary to duplicate regulatory requirements in relation to the provision of electric vehicle charge points for new dwellings, condition 5 has been imposed in relation to character and appearance. This is due to the charge points location within the setting of Morley Hall. Condition 6 confirms the necessity for optional Building Regulation standards to be met in accordance with DP policies. However again compliance would be dealt with under that separate regulatory mechanism so not required within the condition in this instance.

### **Conclusion**

34. For the reasons given above the appeal scheme would comply with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, allowed.

*RJ Redford*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

- 2) The development hereby permitted shall be carried out in accordance with drawing nos: L-01; L-02a; L-05a; L-06; L-07 and L-08.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the approved plans and where not specified shall match those used in the existing building.
- 4) Prior to occupation of the 2 new dwellings hereby permitted, hard and soft landscaping works shall be carried out in accordance with details that have first been submitted to and approved in writing by the local planning authority. These details shall include but are not limited to:
  - Means of enclosure;
  - Planting plans;
  - Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate;
  - Details of hard surfacing, noting materials; and
  - Details of biodiversity improvements.

If, within a period of 5 years from the date of planting, a tree or, specified plant within the landscaping details, (or any trees or plants planted in replacement for it) is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or plant unless the landscaping details state otherwise.

- 5) Prior to occupation of the 2 new dwellings hereby permitted, electric vehicle charging points shall be installed in accordance with siting, design and external finish details that have first been submitted to and approved in writing by the local planning authority.
- 6) The 2 new dwellings hereby permitted shall not be occupied until the Building Regulation optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.

## **END OF SCHEDULE**





# Appeal Decision

Site visit made on 5 August 2024

**by A Hickey MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> September 2024**

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**Appeal Ref: APP/J1915/W/23/3334643**

**Land opposite 44-58 Chapel Lane, Letty Green, Hertford SG14 2PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Vivienne Naylor against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/0958/FUL.
  - The development proposed is construction of a new house, garage and driveway with new landscape planting.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Since the application was determined the National Planning Policy Framework (the Framework) has been revised. Both the main parties have had the opportunity to comment during the appeal process.
3. As part of this appeal, the Council has provided evidence<sup>1</sup> it can now demonstrate a 5-year supply of housing land. This has not been contested by the appellant and I have proceeded on this basis.
4. An updated Ecological Impact Assessment (EIA) dated November 2023 has been submitted as part of the appeal. The Council has reviewed and commented on the document, and so I have had regard to it in reaching my decision.

## Background and Main Issues

5. There is no dispute between the main parties that the appeal scheme would result in limited infilling inside the village. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness or the demonstration of very special circumstances. On the evidence before me, including the decisions<sup>2</sup> by the previous Inspectors (the previous schemes), I have little reason to disagree with the main parties on this matter.
6. Therefore, the main issues of this appeal are the effect of the development on:
  - the character and appearance of the area; and
  - protected species and biodiversity.

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<sup>1</sup> East Herts Five Year Land Supply Position Statement dated March 2024

<sup>2</sup> Appeal refs: APP/J1915/W/18/3207743 and APP/J1915/W/20/3247686

## Reasons

### *Character and appearance*

7. The appeal site is an elongated irregular shaped parcel of land located between Chapel Lane and Cole Green Way. A short narrow public footpath runs between the site and the new property allowed on appeal<sup>3</sup> (No 27). The site at the time of my visit was covered with vegetation, with trees, hedging and some fencing to the boundaries of the site. Within the appeal site was a modestly sized stable building and small shed with most of the site undeveloped.
8. Opposite the appeal site are detached dwellings located in well-sized plots, set back from the road, with generous front and rear gardens. These nearby dwellings are positioned in an orderly arrangement fronting the road. This arrangement gives a distinct sense of spaciousness and ordered pattern of development on this section of Chapel Lane closest the appeal site.
9. The size, position and layout of the surrounding dwellings results in a notable rhythm of development, which contributes positively to the character and appearance of the surrounding area. As identified by the previous inspectors' decisions and matching my observations properties along Chapel Lane towards the junction with Letty Green comprise of single-storey, 1.5 storey and two-storey dwellings of varying designs.
10. East Herts District Plan (DP) Policy VILL3, amongst other things, seeks development to be well designed and in keeping with the character of the village it is located. The appeal site is located close to No 27, a contemporary-designed dwelling. Subject to its overall design and location being acceptable, a further contemporary-designed dwelling would not be an alien addition to this part of the village.
11. I acknowledge that the appellant has sought to address the concerns of the Inspectors on the previous irritations. In doing so the evidence before me indicates that the proposed dwelling is now located in a narrower section of the site than the previous schemes.
12. The positioning of the dwelling in this location would be at odds with the more spacious plots with dwellings set back from the road in the immediate vicinity. The proposal would therefore appear as a cramped development within a constrained narrow plot, thereby harmfully diminishing the spaciousness and character of the area.
13. Moreover, the large expanse of flat roof would be visible along parts of Chapel Lane and more so from Cole Green Way, given the changes in topography. As a result, the appeal scheme would be distinctly at odds with the prevailing character of neighbouring dwellings particularly with regards to its massing and low-level flat roof form.
14. I acknowledge the appellant's comments that flat roof features on the appeal site for the previous schemes and at the development at No 27 have not drawn significant concerns from Inspectors. However, the scheme at No 27 was found to be harmful to the character and appearance of the area. Additionally, the two previous design iterations on the site are materially different to the current

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<sup>3</sup> Appeal ref: APP/J1915/W/17/3174337

proposal and therefore I cannot draw any direct comparisons that weigh in favour of the proposal.

15. With the exception of views to the east, windows would be constrained given the short boundary separation distances and the height and location of existing and proposed boundary treatments. As a result, future occupiers may seek to remove this vegetation to reduce the sense of being enclosed opening up external space around the property. In this instance, I do not consider that the proposed landscaping scheme would provide sufficient mitigation against the identified harm, nor do I consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.
16. Additionally, having seen the appeal site from a number of viewpoints, there is nothing before me to suggest that the landscaping scheme proposed would greatly improve the character of Chapel Lane.
17. For the above reasons, the proposed development would be harmful to the character and appearance of the appeal site and surrounding area. It would therefore conflict with DP Policies VILL3 and DES4. These require amongst other things, a high standard of design and layout to reflect and promote local distinctiveness and be in keeping with the village it is located in. It would also conflict with the Framework in so far as it seeks development to be sympathetic to local character.

#### *Protected species and biodiversity*

18. Bats, all of which are protected species under the Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations, as amended. The updated EIA identifies building one as having a low value for roosting bats. The updated EIA does note that butterfly wings found on the southwestern side of the stables could indicate feeding behaviour from bats or birds. However, no full internal assessment has been undertaken within building one so evidence of bats using the building may not have been seen.
19. The appeal scheme would see the demolition of building one. No clear evidence is available before me to satisfactorily conclude that the appeal scheme would not result in the destruction of bat roosts or cause disturbance, injury, or death to any bats. This is particularly notable as potential evidence of feeding bats in proximity to building one has been indicated. As a result, it is not possible for me to conclude that harm to protected species would be avoided. This is a matter which requires certainty for the decision-taker that the proposal can avoid harm which is currently not clear.
20. The updated EIA identifies the existing habitats present on site, which include the existence of neutral grassland, scattered trees, bramble scrub and mature trees. This is not disputed by the Council.
21. Notwithstanding the narrow and irregular shape of the appeal site, the built form-to-plot ratio is limited in terms of the overall site area. Based on the proposed plans submitted, there appears to be more than sufficient space remaining to accommodate planting, hedgerows, and other methods that could be employed to secure biodiversity net gain. A condition could be imposed that would enable the required biodiversity net gain as sought by DP Policies NE2 and NE3.

22. However, in light of the above, I cannot be certain that there would not be harm to protected species. As a result, it would fail to accord with DP Policy NE3, which seeks to ensure that proposals have no adverse impact on protected species. The proposal would also fail to accord with the Framework insofar as it seeks to protect biodiversity.

### **Other Matters**

23. As noted by the appellant, the land is currently unoccupied. However, no substantive evidence has been put forward that there is no demand for a stable and paddock in the surrounding area. As such, I am unconvinced that the appeal site is in need of a new use.

24. As established above, the Council can now demonstrate a sufficient supply of housing land. As such, paragraph 11.d) ii. of the Framework is not engaged. Nonetheless, there would be benefits from the contribution of one modern, sustainably built dwelling. This would be on a windfall site that could be occupied by a wide variety of people and be adaptable to the changing needs of future occupants.

25. There would also be social and economic benefits, including for the village, arising from the construction and occupation of the dwelling. Environmental benefits would also arise from BNG, as well as improving the health of trees onsite. However, given the scale of the scheme, these benefits even when combined, would not outweigh the harm I have identified.

### **Conclusion**

26. The proposal would provide a biodiversity net gain on-site. However, this would not outweigh the harm to the character and appearance of the area or the potential harm to protected species, namely bats. As such, the proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, the appeal is dismissed.

*A Hickey*

INSPECTOR



## Appeal Decision

Inquiry Held on 16-18, 23-24 and 30 July 2024

Site visit made on 25 July 2024

**by K Ford MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22<sup>nd</sup> August 2024

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### Appeal Ref: APP/J1915/W/24/3340497

#### Land east of A10, Buntingford, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
  - The appeal is made by Countryside Partnerships Ltd and Wattsdown Developments Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/23/1447/OUT, dated 25 July 2023, was refused by notice dated 15 February 2024.
  - The development proposed is development of 350 dwellings, with up to 4,400 sq m of commercial and services floorspace (Use Class E and B8) and up to 500 sq m of retail floorspace (Use Class E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping.
- 

#### Decision

1. The appeal is allowed and planning permission is granted for an outline planning application (with all matters reserved except for access) for up to 350 dwellings, up to 4400 sq m of commercial and services floorspace (Use Classes E and B8) and up to 500 sq m of retail floorspace (Use Class E) and other associated works including drainage, access into the site from the A10 and Luynes Rise (but not access within the site), allotments, public open space and landscaping at land east of the A10, Buntingford, Hertfordshire in accordance with the terms of application reference 3/23/1447/OUT and the conditions set out in the schedule attached to this decision.

#### Procedural Matters

2. The proposal seeks outline planning permission with all matters reserved except for access. Matters of appearance, landscaping, layout and scale are reserved for future determination. However, plans to be approved at this outline stage include a land use parameter plan, access and movement parameter plan, green infrastructure parameter plan and density and building heights parameter plan. The plans set the framework for matters that include maximum building heights, residential densities and the level of green infrastructure provision. The Council determined the application on this basis and I have done the same.
3. The Council's reasons for refusal initially included matters related to the impact of the scheme on flood risk. This has now been resolved and this reason for refusal is no longer being pursued by the Council.

## **Main Issues**

4. The main issues in this appeal are:
- Whether the proposal would be a suitable location for residential development having regard to the spatial strategy of the development plan.
  - Accessibility of the development to services and facilities.
  - The effect on the character and appearance of the area with specific reference to landscape character and density.
  - Whether the Council can demonstrate a deliverable housing land supply as required by the National Planning Policy Framework (NPPF).

## **Reasons**

### *Location of Development*

5. Policy DPS2 of the East Hertfordshire District Plan (District Plan) sets out a development strategy for the plan. The policy directs development in the first instance to brownfield sites, then to sites within the urban areas of the District's 5 market towns, followed by urban extensions to specific identified settlements. Development in villages is limited.
6. The appeal site is located on the edge of but outside the urban area of Buntingford, one of the 5 market towns. Buntingford is not included in the list of settlements where urban extensions are supported and through policy BUNT1 of the District Plan it does not seek to allocate any additional development beyond that which already had planning permission at the time of adoption of the development plan in 2018. As the appeal site is located outside of the confines of Buntingford, for the purposes of the District Plan it is located within the Rural Area Beyond the Green Belt. In such locations certain types of development are permitted provided that they are compatible with the character and appearance of the rural area. Such uses are identified in Policy GBR2 of the District Plan. There is agreement between the parties that the scheme when taken as a whole does not accord with the provisions of the policy.
7. The location of the site outside the settlement boundary and the absence of compliance with any of the identified exceptions in the policy means that there is conflict with the development plan and the strategy that underpins it. The proposal would conflict with Policies DSP2 and GRB2 of the District Plan, the provisions of which are identified above, and Policy HD1 of the Neighbourhood Plan which amongst other things restricts development outside settlement boundaries to small infill development in defined locations, affordable housing on rural exception sites and development for which there is a demonstrable need for a location in the countryside.

### *Access to Services and Facilities*

8. Buntingford is identified as being a small town located at the centre of a large rural area in the northern half of the district. It functions as a rural service centre for outlying villages in the north of the district. The District Plan identifies that the town has an extensive range of services and facilities that serve the day to day needs of residents. The Council accepts that the development would be accessible to those services and facilities.

9. Residents of the new development, along with existing residents of the town however would be required to travel to larger nearby towns for comparison shopping trips which is why Buntingford is regarded as a Minor Town Centre.
10. Buntingford is not served by a railway. Bus service connections to other settlements are limited and as such there is a reliance on the private car to access larger nearby settlements for employment and leisure. The Council identified that in the 2021 census 34% of residents travel over 10km to work. However, the extent to which the development of the proposed 350 dwellings would exacerbate the mis-match between housing, employment, retail, community facilities and infrastructure would be tempered to some extent by the proposed employment and retail elements of the scheme.
11. The scheme also proposes a financial contribution to the Highways Authority who has indicated that it would be used to upgrade an existing bus service serving the town and wider area. This would supplement an on demand bus service introduced in 2021 and extend the options available to residents to travel via public transport to major towns and rail connections for onward journeys.
12. Interested parties have raised concerns about the ability of services and facilities such as doctors surgeries, dentists and schools to accommodate additional development. The concern raised by residents is noted but it is for the service providers to manage the provision and the scheme seeks to manage the impact through the planning obligations. I return to this matter later in my decision.
13. In conclusion, the development would conflict with Policies DPS2 and GRB2 of the District Plan because it would not be in a location that aligns with the spatial strategy of the District Plan in terms of accessibility. It would also conflict with the part of Policy TRA1 of the District Plan that identifies that development should primarily be located in places that enable sustainable journeys to be made to key services and facilities. However, the conflict is reduced because of the day to day services and facilities that are available in the town and because some economic and retail opportunities are proposed as part of the scheme and the proposed measures to improve public transport provision. For those reasons I give conflict with the policies moderate weight.

#### *Character and Appearance*

14. The appeal site comprises some 28.9ha of arable land adjacent to the western edge of Buntingford. The site is bounded by residential development, an industrial estate and waste water treatment works. To the west of the site is the A10 which cuts through part of the site. The site generally slopes north west to south east. There are 2 public rights of way that cross the site.
15. The site falls within 2 landscape character areas. The northern part of the site is within Area 141 Cherry Green Arable Plateau and the southern section within Area 142 High Rib Valley. There is agreement between the parties that the site is not a valued landscape for the purposes of paragraph 180(a) of the NPPF. It is also agreed that the land has a rural character but that there are suburban intrusions to the character of the site as a result of the surrounding residential development, industrial estate and A10 road.

16. There is little between the parties in terms of the existing value of the landscape and its susceptibility to change. The appellant says the site has low-medium landscape quality and value and medium susceptibility to change, the Council say it has medium quality and value and medium susceptibility to change. Both agree that the development would lead to a loss of landscape features such as the open fields and that the development would represent a significant change to what at present is largely an open agricultural landscape. Development of the site would inevitably harm its contribution to the landscape of the area by introducing built development where currently there is little. There would also be a loss of its semi rural character.
17. I agree that the greatest landscape effects of the development would be experienced during construction and during year one post development with the greatest effects felt by those using the public rights of way that run through the site and on the residents living on Longmead, Monks Walk, Oak End and parts of Meadow View as well as parts of Peasmead, Knights Close and Barleycroft. I also agree that the effects of the scheme would be restricted to a local level and have a limited effect of incursion into the countryside.
18. The Council accepted in cross examination that the development would not necessitate substantial modification of ground levels with the findings of the appellant's engineering consultant identifying that the ground is not particularly steeply sloping and the development would not necessitate significant retaining walls.
19. The areas of disagreement between the parties focus on the extent to which the appeal site provides a transitional role and acts as a buffer between the urban area of the settlement and the countryside. Whilst I accept the Council's point that the site does provide a gap between the edge of the settlement and the countryside, there is no policy requirement requiring such a gap. The existing western edge of Buntingford is not characterised by such a feature with built development going up to the boundary of the A10 elsewhere on the western edge of the settlement.
20. I am satisfied that the A10 would provide a buffer and defensible boundary between the urban edge and the countryside and that the landscaping included in the parameter plan demonstrates an ability to soften the urban edge between the built development, the A10 and the countryside. Indeed, the landscaping parameter plan demonstrates that post development it is possible to create a buffering function greater than currently experienced elsewhere in the vicinity.
21. Turning to density, the density and building height parameter plan for the scheme identifies densities of up to 30 dwellings per hectare in part of the site and up to 40 dwellings per hectare in other parts. There would be a net density of 33.8 dwellings per hectare. The appellant demonstrated that the site would have one of the lowest gross plot ratios in the vicinity.
22. I agree with the appellant and one of the Council witnesses that in the context of Policy HOU1 of the District Plan that a medium density would be appropriate given the location of the site on the edge of a town and that in the context a density of 30-40 dwellings per hectare would constitute a medium density and an efficient use of land. On this basis the proposed scale of development would not be excessive.



23. The Council has stated that the proposed density would not enable sufficient open space, with the development relying on narrow strips of open space. However, the scheme includes provision for children's play, amenity green space, allotments and natural green space. The total provision would exceed the District Plan policy requirement of 4.18ha with 7.80ha. There would therefore be a balance between development and open space. There is variety in the width of the linear spaces identified in the green infrastructure parameter plan with the appellant's witness confirming that it would extend up to 48m in width in places which would not be insignificant. There is little to indicate that the development could not support a range of activities and provide amenity value. It would therefore enable multifunctional use. In addition, I note that there are outdoor community facilities that would enable recreational opportunities within walking distance of the site.
24. The development would provide an opportunity to improve the current ragged arrangement of back gardens that border the site and would strengthen the urban edge of the settlement. The parameter plans demonstrate that appropriate design, density and the use of landscaping, including the planted bund would avoid a perceptible intrusion of the A10 on Buntingford that was identified by the Council's landscape witness and enable transition from the urban edge of the settlement to the countryside. Conditions requiring a masterplan and design principles document would ensure appropriate consideration is given to design at the reserved matters stage.
25. Overall, I conclude that the development would not conflict with the District Plan with regards the density of development. However, once planting has matured, I consider the effect of the development on the landscape would be moderately adverse. I therefore conclude that the development would cause harm to the landscape and would therefore conflict with Policies DES2, DES3 and DES4 of the District Plan. These policies, amongst other things require development to demonstrate that they will retain, protect or enhance the character and distinctive features of the area. It would also conflict with the parts of policies HD2, HD4 and BE2 of the Buntingford Community Area Neighbourhood Plan (Neighbourhood Plan) that requires development to be sensitive to the landscape, conserve, enhance or strengthen the character and distinctive features of the area and respect the rural/ semi rural character of the area.

#### *Housing Requirement and Deliverable Land Supply*

26. The District Plan was adopted in October 2018 and therefore is over 5 years old and so the assessment of housing land supply is against local housing need using Government's standard methodology. This is not disputed by the parties.
27. The Council's latest Housing Land Supply Position Statement covers the period 1 April 2023 to 31 March 2028. The statement uses a Local Housing Need (LHN) figure of 1,041 dwellings per annum as at 1 April 2023. This incorporates revised affordability ratios published in March 2024 and generates a requirement of 5,205 dwellings over the 5 year period.
28. The appellant argues that the Council is wrong to use the results of the Standard Method for the period 2024 to 2034 and the affordability ratio for 2023, published in 2024. Using the Council's Housing Land Supply Statement March 2023 which covers the 5 year period 1 April 2023 to 31 March 2028, it

uses an LHN figure of 1,112 dwellings per year as at 1 April 2023 and a housing requirement of 5,560 dwellings.

29. A third option has been presented which updates the 5 year supply to 2024-2029. However, the analysis for the monitoring year 2023-2024 has not been completed and so the evidence is not sufficiently robust to inform a position on this 5 year time frame.

#### Housing Land Supply

30. The NPPF defines the meaning of deliverable. The site must be available now, offer a suitable location for development now and be achievable with a reasonable prospect of delivery over a 5 year period. Sites with detailed planning permission are assumed to be deliverable unless there is evidence to indicate otherwise. Sites with outline planning permission or allocated sites are only considered deliverable where there is clear evidence that delivery will take place within 5 years.
31. The Council's case is that it can demonstrate a deliverable 5 year housing land supply of 6,307 dwellings from 1 April 2023 to 31 March 2028 which equates to 5.67 – 6.06 years, depending on the approach used. The appellant argues it is closer to 3.86 – 3.93 years with a supply of 4,088 dwellings. In outlining their cases I have noted the points raised by the parties in support of their respective positions, along with the relevant planning appeals cited.
32. In considering the elements of supply that remain in dispute it should be noted that my assessment is based on the evidence presented as part of the Inquiry. It is therefore a snapshot in time, representing the situation as it stood at the time of the Inquiry.

#### Sites

##### 3/13/0804/OP ASR's 1-4 Land at Bishop's Stortford North

33. Forming part of a District Plan allocation, the site has had planning permission since 2015 for 2,200 dwellings with 890 completed up to 2022/23. Build out rates have varied 105-286 per year with an average of 202. Progress on site has slowed due to Covid 19 and because construction is coming to an end on recent phases. All remaining parcels are expected to commence by 2025 at a rate of at least 260 per year with 5 developers on site. However, there is a lack of evidence to substantiate the higher predicted delivery rate identified by the Council and so I have reduced the anticipated completions to align with the average delivery rate that has occurred on the site to date. This generates a figure of 1,010 dwellings.

##### 3/21/2339/REM 3/20/0683/REM ASR 5 Land at Bishop's Stortford North

34. This site has had planning permission since 2016, with first completions taking place in 2018. 272 were completed by 2022/23 with an average delivery rate of 54 per year. There is little before me to indicate that the Council's predicted average delivery rate of 51 dwellings is not achievable, noting the reduced completions in 2022/23 and 2023/24. I therefore concur with the Council's figure of 257 dwellings.

#### BISH6 Bishop's Stortford High School

35. At the time of the Inquiry there was no signed S106 for the outline application for this site and no Reserved Matters had been submitted. Whilst pre-application discussions have commenced there is little before me to demonstrate that the anticipated application will be submitted during the summer of 2024. The predicted approval of planning permission and expectation that the developer will be onsite in the timescales identified by the Council are optimistic, even with a masterplan in place. I therefore share the view of the appellant in this case.

#### BISH7 The Goods, Bishop's Stortford

36. This allocated site is subject to a masterplan framework. 174 dwellings have already been completed within the 5 year period. A hybrid planning application for 423 dwellings (245 in detail and 178 in outline) has been submitted to the Council and a decision is expected by the end of 2024. The application replaces an extant planning permission on the site which the Council say will not be implemented. At the time of the appeal a drainage scheme for the site has not been approved by the Lead Local Flood Authority (LLFA). Whilst there has been progress since the original planning application and discussions with the LLFA are ongoing, the Council's suggestion that the matter can be resolved through a planning condition does not provide clear evidence of delivery. This is particularly given that the extant permission was also subject to a drainage condition that it was not possible to discharge. In the absence of clear evidence to show delivery of the 423 dwellings in the hybrid application I have only included the 174 already contributing to the 5 year supply.

#### BISH8 The Causeway

37. This District Plan allocation has been subject to delay in signing a Development Agreement and as such no planning application has been submitted to date. Pre-application discussions are not expected to commence until the autumn of 2024 with a masterplan and planning application expected to be prepared later in the year. Whilst the Council expect 150 dwellings to be delivered in 2027/28 there is a lack of clear evidence of delivery within the 5 year period.

#### North-West Buntingford

38. An outline planning application was granted permission in March 2024 and reserved matters are expected by the end of the year. Whilst no housebuilder has been confirmed the promoter is engaged with multiple housebuilders, which demonstrates interest in the site. The promoter expects the developer to be onsite in 2025, although there is little before me to substantiate that. Nevertheless, the site is subject to a masterplan and outline planning permission. Even if there are delays in bringing the site forward 58 dwellings could be delivered within the 5 years given that following the discharge of planning conditions development could commence immediately.

#### HERT3 West of Hertford (North)

39. Outline planning permission was granted in April 2024 for 342 dwellings, subject to a S106 agreement which has not yet been finalised. The Council expects 200 of the approved dwellings to be delivered with the 5 year period. Given the history of delays associated with the site and the fact that no developer for the site has been confirmed, I am not able to agree with the Council's view that there will be delivery within the 5 year period.

#### HERT4 North of Hertford (North)

40. At the time of the Inquiry a full planning application for the site was expected to be presented to planning committee in August/ September 2024 with a recommendation to approve. The applicant is expected to start on site in 2025. This site is an allocation in the District Plan and the proposal is in line with an approved masterplan. There are no outstanding objections from statutory consultees and the heads of terms for a S106 have been agreed. I am therefore satisfied that there is clear evidence that the site could deliver 118 dwellings within the 5 year period.

#### WARE2 Land North and East of Ware

41. An outline planning application was submitted in 2023 for 1,800 homes with a resubmission of a hybrid application expected in September 2024. It is expected that this will be determined by March 2025. However, a further reserved matters application will be required on the housing element of the proposal. The Council has suggested that 75 dwellings will be delivered within the 5 year period but this appears optimistic given the current status of the application and the number of unresolved matters.

#### GA1 The Gilston Area (Villages 1-6)

42. This site is part of a large complex development plan site allocation. The Council has resolved to grant planning permission for part of the site but it is subject to a S106 that has not been signed. The Council say that viability and other planning issues have been resolved and outline planning permission is expected imminently. However, reserved matters and the discharge of conditions will be required before works can start and given the complexity of the site and delays to date there is a lack of clear evidence to demonstrate that the site will come forward in line with current predictions.

#### GA1 Gilston Village 7 Land off Church Lane

43. This site is also part of a large complex site allocation. Although the Council resolved to grant planning permission in March 2023, it is still subject to an uncompleted S106 agreement. There is a lack of clear evidence to include this site within the 5 year supply.

#### EWEL1 Land East of Welwyn GC

44. Outline planning permission for 2,650 dwellings across 2 Council areas, 1,350 of which are in East Hertfordshire is set to be subject to the resubmission of a planning application at the end of 2024. This is expected to be an outline planning application. Given that following this reserved matters and the discharge of conditions will be required prior to commencement there is a lack of clear evidence of delivery within the 5 year period. This is even with confirmation that issues with the neighbouring authority land have been overcome and that sand and gravel extraction in part of the site would not affect the delivery of the housing in the 5 year housing supply.

#### WAS3 Walkern Road

45. The site is allocated in the Watton-at-Stone Neighbourhood Plan. A full application for 60 dwellings is subject to a resolution to grant planning permission subject to conditions and a S106. Even if there was some delay beyond the predicted August issue of a decision, delivery within the 5 years can be anticipated given the lack of impediments to bringing the site forward within the timescales identified.

#### *Conclusion on 5 Year Supply*

46. For the reasons outlined I am of the view that the Council can demonstrate through clear evidence that it has sufficient housing land for the delivery of 4,671 dwellings within the 5 year period 2023-2028. The Council has a 4.20 – 4.49 year housing land supply. Whether using the approach favoured by the Council or that favoured by the appellant, the Council cannot demonstrate a 5 year housing land supply and so the NPPF deems the policies which are most important for determining the planning application to be out of date. Where policies are out of date paragraph 11(d) of the NPPF is engaged. Paragraph 11(d) of the NPPF says that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies taken in the NPPF taken as a whole. This is an important material consideration in the planning balance.

#### **Other Matters**

47. Concern has been raised that the development would be noise generating. It would be possible to manage the generation of noise during construction through an appropriately worded planning condition restricting the proposed days and hours of construction. There is little to indicate that the development when complete would generate noise in excess of what would be expected from a residential area. In terms of the commercial uses, an appropriately worded planning condition could require compliance with sound insulation and noise reduction in the buildings to ensure an adequate level of amenity.
48. The issue of crime has been raised. Whilst I do not doubt that the concerns raised by residents are genuine, I have no substantive evidence before me to

show that the appeal scheme would result in an increase in crime. Without a reasonable evidential basis for the concern the weight I can attach to it is limited. Whilst concern has been raised about the impact of the development on the quality of life of neighbouring residents, there is little before me to support this.

49. A number of residents refer to concerns about a loss of value to their properties. However, this is not a land use matter that can be taken into account in the planning considerations. Similarly, I am aware that there are boundary disputes with neighbouring properties that border onto the site. However, such matters fall outside the scope of this appeal and I can only have regard to the planning merits of the case.
50. Whilst it has been suggested that the waste water treatment works is unable to support any further development Thames Water has suggested a planning condition requiring completion of all water network upgrades required to accommodate the additional development or the preparation of a development and infrastructure phasing plan. This would ensure that adequate infrastructure is in place to support the development and so I have no reason to take a different view.
51. It has been suggested that the poor drainage on the site makes it unsuitable for development. Whilst the LLFA did initially raise objection to the development, the appellant has produced a further Outline Drainage Strategy Addendum (May 2024) addressing the points of concern. The LLFA is now satisfied that the matter can be addressed through an appropriately worded planning condition. It would require at the reserved matters stage the submission of detailed designs of a surface water drainage scheme to be implemented prior to first occupation of the development. I am satisfied that this would address the matter.
52. Residents have raised concerns about the effect of the development on wildlife. The Hertfordshire County Council Ecology Advisor has not raised any ecology objections, subject to appropriately worded planning conditions relating to the undertaking of appropriate studies that include bat and reptile surveys, an Ecological Impact Assessment and Biodiversity Net Gain Plan and the requirement to undertake appropriate avoidance, mitigation, compensation and enhancement measures. There is little before me to take a different view. The evidence suggests the site has relatively modest ecological value and an appropriately worded planning condition would ensure that measures are implemented to secure biodiversity net gain on the site.
53. Whilst I note the highways concerns raised by interested parties, Hertfordshire County Highways Authority support the proposal, subject to identified planning conditions. The Authority is satisfied that a suitable sustainable transport corridor can be achieved along Aspenden Road and Luynes Rise and they consider that the proposed sustainable transport mitigation measures aimed at encouraging modal shift are appropriate. There is no reason for me to take a different view. As identified elsewhere in my Decision, there will be a change to the way in which the Public Rights of Way which cross the site will be experienced. However, walkways through the site would be maintained post development and an appropriately worded planning condition would ensure that the safety of public rights of way users would be maintained during the construction of the development.

54. The site contains open agricultural land falling within The Agricultural Land Classification of Grades 2 and 3a which is classified as very good quality and good quality. This carries some limited adverse impact in the planning balance.

### **Planning Obligations**

55. The appeal is accompanied by 2 bilateral undertakings under section 106 of the Town and Country Planning Act 1990 that commits the appellant to a number of planning obligations that are required in line with Policies DEL2, HOU3, CFLR1, CFLR7 and CFLR9 within the District Plan. These policies seek to ensure the facilities and services that are essential for development to take place or to mitigate the impact of the development. It should be noted that one of the obligations contains a 'blue pencil' clause in the event that I do not consider the education contribution sought by Hertfordshire County Council would be justified in terms of Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the NPPF.
56. The obligations with the District Council secure the provision of at least 40% of the dwellings as affordable of which 75% will be affordable rented units and 25% will be shared ownership. It also secures 1% self build and custom housebuilding plots, a minimum of 1.37ha of open space (including 0.22ha of equipped children's play space and allotments, the establishment or appointment of an open space management company, an open space scheme and open space management scheme. In terms of financial contributions, it would secure money towards bowls, tennis, playing pitches, studio space, swimming pools, fitness gym, village and community centres infrastructure, general medical services and general practitioner services, recycling and funds for Council monitoring.
57. The obligation with Hertfordshire County Council would secure financial contributions for libraries, first educational land, first, middle and upper education, childcare services (0-2 and 5-11), special educational needs and disabilities, waste transfer station, youth, sustainable transport, residential travel plan evaluation and support and workplace travel plan evaluation and support and Council monitoring.
58. In addition, the obligation with the County Council would secure provision of a residential travel plan to include a travel pack and sustainable travel vouchers to the dwellings and the provision of a workplace travel plan and the provision of a childcare facility on the site.
59. There is dispute between the parties as to whether the contributions sought for the number of first, middle and upper school pupils is appropriate. The appellant agrees with the principle of the need to make contributions for education provision and the cost per place set by the education authority. However, they disagree with the number of places to be funded.
60. Buntingford falls within the Hertfordshire Education Authority which operate a 3 tier system of first, middle and upper in this area, alongside early years, post 16 and special educational needs and disabilities provision. The appellant argues that a 3 tier education system approach artificially penalises developers who seek to construct new dwellings within a 3 tier education area and the

number of school places sought by the education authority is excessive. Nevertheless, the fact remains that a 3 tier system is in operation and there are costs associated with the delivery of that system that need to be met.

61. The appellant advocates the use of the Department of Education (DfE) model which is based on a 2 tier system rather than the Hertfordshire model which uses the 3 tier system operating in Buntingford. However, the DfE model is not mandatory and the DfE's pupil yield data may be considered a starting point or baseline position which authorities can supplement or adjust according to local circumstances and evidence. The DfE guidance on Estimating Pupil Yield from Housing Developments 2023 states '*The use of [Department for Education] data is voluntary and [local authorities] can continue to rely solely on local pupil yield evidence if this is considered appropriate, for instance due to the local authority holding more detailed and representative data over a longer period, or data showing significant recent deviation from historic trends*'. This appears to be exactly what the education authority has done. In the round table discussion the appellant's representative accepted that the model used by the County Council is robust and in their evidence the education authority demonstrated that there is no double counting in the approach taken.
62. The appellant has made comparisons with other charging authorities. However, this only serves to further demonstrate that other authorities are also taking a localised approach. Given that the examples cited are different developments in different authority areas with different data sets, I therefore give limited weight to the comparisons made.
63. On the evidence before me, I am satisfied that the education requirements of the Education Authority meet the tests within the regulations and as such are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
64. Overall, given the policy requirements and infrastructure needs arising from the development I am satisfied that all of the obligations sought are necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind to the development. They would accord with the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the policy tests in the NPPF.
65. Consequently, I can take all of the obligations into account as part of my decision. The obligations that are necessary to mitigate the impacts of the development are neutral in the planning balance. This applies in most cases. Instances where there would be positive benefits arising from the obligations, for example the improved bus service, need to be added to the planning balance. The proposed obligations would not cause harm and as such there would be no conflict with Policies DEL2, HOU3, CFLR1, CFLR7 and CFLR9 within the District Plan.

## **Benefits**

66. On a general note, I disagree with the Council's view that a benefit should be given less weight if it is policy compliant. A benefit should not be downgraded just because it is delivering an objective identified in the District Plan. If it



- were, the ability to apply judgement that some policy compliant benefits are more important than others due to the circumstances of the case would be removed.
67. For the avoidance of doubt, in ascribing weight to the benefits I have used the following scale; limited, moderate, significant and substantial.
68. The development is expected to deliver 200 - 240 dwellings within the 5 year housing land supply period and as such would make an important contribution in reducing the Council's housing shortfall. Delivery would extend beyond the 5 year assessment and weight should be given to the longer term delivery. This is particularly so given the Council is some years off adopting a new development plan. For these reasons, I attach significant weight to the proposed housing delivery.
69. The scheme also includes the delivery of 40% affordable housing. In the context of a need of 3,784 affordable dwellings over the period 2021-2033, I give this substantial weight.
70. In addition to the 40 affordable housing, the development would include 1% self build and custom build which equates to 4 dwellings. Demand is notably greater than delivery and the Council is not meeting its legal duty for provision. I give this significant weight.
71. The development would include the provision of retail and employment floorspace. These economic and social benefits would be accessible to people beyond the development. I give this significant weight.
72. The proposed improvements to the bus service would improve the accessibility of the site and the benefits secured would go beyond immediately mitigating demand generated by the proposal and would secure a benefit to the wider community in terms of access to improved services. This, along with the other highway improvements proposed would generate a moderate benefit.
73. Similarly, I give the financial contributions to local facilities and the jobs created during construction moderate weight.

### **Planning Balance**

74. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the development would conflict with the spatial strategy of the plan and therefore Policies DSP2 and GRB2 of the District Plan as the scheme would be located outside the settlement boundary of Buntingford and would not be appropriate development in the countryside. I give this conflict moderate weight.
75. Accessibility to services and facilities is constrained and the development would generate a notable proportion of trips by motor vehicles. I give this harm moderate weight. The scheme would harm the character and appearance of the landscape although the harm would be limited by the contained nature of the site. I give this moderate weight. There would be a loss of agricultural land which I give limited weight.
76. Set against this, there are a number of benefits that would result from the scheme. These include the delivery of market housing, custom and self build

housing and employment and retail opportunities which I give significant weight. It would increase the delivery of affordable housing which I give substantial weight and generate public transport and community facility benefits which I give moderate weight.

77. In balancing the different considerations my approach is influenced by paragraph 11(d) of the NPPF which is engaged. As the Council is unable to demonstrate a 5 year housing land supply planning permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
78. There would be significant benefits from the scheme from the delivery of market housing and substantial benefits in the delivery of affordable housing. This is balanced against the harm caused to the strategy of the District Plan that directs where new development should be located, accessibility to services and facilities and the landscape. However, I have identified that in each case only moderate harm would be generated by these conflicts. There would be a limited harm from the loss of agricultural land.
79. As such, the adverse impacts of the development would not significantly and demonstrably outweigh the substantial benefits of the proposal. The NPPF therefore supports the grant of planning permission. The appeal should therefore be allowed and planning permission granted subject to necessary planning conditions.

### **Conditions**

80. A schedule of proposed draft planning conditions was submitted prior to the Inquiry event and there were some subsequent updates and revisions to the schedule as the event progressed. The conditions were discussed at the round table session. I have considered the suggested conditions having regard to the Planning Practice Guidance and the NPPF which states that conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
81. In addition to the standard time limit condition (1) for the submission of reserved matters and commencement of the development, a condition (2) defining the remaining reserved matters to be approved and a condition requiring the development to be carried out in accordance with the approved plans (3) are necessary in the interests of proper planning and for the avoidance of doubt. Despite the description of what has been applied for and the plans approved at this outline stage, a condition (3a) controlling the quantum of housing, and Class B8 and Class E uses is also necessary for similar reasons.

### *Phasing and Use*

82. It is necessary for the development to be carried out in accordance with a Phasing Plan (10) to ensure good design and the delivery of infrastructure. The provision of the commercial and services uses and retail floorspace are an important part of the scheme to facilitate sustainable development. It is therefore necessary to restrict the scale of residential development on the site until the provision of the buildings associated with these uses are erected (55).

Uses outside of those approved is also restricted to protect vitality and viability (58).

### *Design and Appearance*

83. Good design is important and high urban design quality is expected in development plan policy and national guidance. Conditions are therefore necessary to require the preparation and implementation of a masterplan to demonstrate how the development would achieve good place making and apply the principles identified in the parameter plans approved (4). I consider this scheme to be a significant development and as such this requirement would comply with Policy DES1 of the District Plan.
84. A Design Principles Document is also necessary (5) to expand details contained within the Design and Access Statement. This will ensure a more comprehensive assessment of a wider range of matters than that covered in the appellant's Buntingford West Character Area Guidance. Also necessary for good design is a condition requiring details of external materials (24) and an Open Space Strategy identifying and detailing matters related to areas of formal and informal open space, the local play space and distribution of play areas within the development and the provision of allotments (12). Good quality hard and soft landscaping will enhance the development and appropriate planting schemes will also impact positively on the living conditions of residents. Details of this provision and ensuring their maintenance during the first 5 years are necessary for the success of the scheme (44 and 56).
85. Given the location of the development I have included a condition removing permitted development rights relating to the construction of additional storeys on dwelling houses and terrace buildings in commercial use within the development but I have amended the Council's wording for clarity (57).

### *Archaeology*

86. The site is known to contain heritage assets of archaeological interest. To mitigate the impact of the development on the archaeology a programme of archaeological work is necessary (13).

### *Construction*

87. The construction of the development would cause disruption to surrounding roads and those living nearby. It is therefore necessary to mitigate the negative effects as far as possible through a Construction Traffic Management Plan (27), by restricting working hours on the site (29), storing materials and waste in appropriate containers (54), and taking appropriate measures to control dust emissions (30). To ensure that construction waste is treated in a sustainable way a Site Waste Management Plan is also necessary (28).

### *Noise*

88. It is necessary to ensure that future residents would not suffer from an adverse noise environment within their homes. Residential units in close proximity to commercial uses would be particularly at risk. It is therefore necessary to control internal noise transmission. The conditions include measurable parameters in accordance with the recommendations in BS 4142:2014+A1:2019 Methods for Rating and Assessing Industrial and

Commercial Sound and BS 8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings (25, 48, 49).

89. A restriction on the noise rating level of air source heat pumps is also necessary to protect residential amenity (50). Prior to any commercial floorspace being used as a gymnasium details of sound insulation and a Noise and Vibration Management Plan are necessary (52, 53). An acoustic bund and fence are necessary to ensure future residents do not suffer an adverse noise environment from the adjacent A10 road (47).

#### *Air Quality*

90. Implementation of the mitigation measures identified within the Air Quality Assessment (July 2023) is necessary to ensure an adequate level of air quality for the residents of the new development (35). As works are planned to the nearby waste water treatment works prior to development, an updated odour modelling assessment and compliance with any mitigation measures contained within it is necessary to ensure an adequate level of air quality for residents of the new dwellings (36).

#### *Contamination*

91. As the development will include residential development it is necessary to investigate the potential for contamination and where necessary ensure remediation is undertaken (14). An Intrusive Ground Investigation, Risk Assessment and Method Statement is necessary prior to works involving excavations (16). Measures are also necessary to ensure action is taken if contamination not previously identified is found to be present during the construction of the development (15).
92. To prevent contamination through surface water drainage a Surface Water drainage Scheme is necessary (18) and only permitted drainage systems of the infiltration of surface water on the ground should be implemented (19). Any interim and temporary drainage measures required during site clearance and construction will also require approval (17).

#### *Water Infrastructure*

93. Foul water network infrastructure works are likely to be required to accommodate the proposed development. A condition requiring the necessary works is therefore needed (34).

#### *Flooding*

94. To prevent flooding and to ensure the satisfactory management of sources of flooding detailed designs of a surface water drainage scheme is necessary (9). To ensure that the development achieves a high standard of sustainability and that flood risk is adequately addressed for each new dwelling, any proposed watercourse alterations are required to be identified and approved (10). A verification report demonstrating compliance with the surface water drainage scheme is necessary (33) along with a maintenance and management plan for the entire surface water drainage system and any existing watercourses (51).

#### *Ecology*

95. An Ecological Impact Assessment, Ecological Management Plan and Construction Ecological Management Plan is necessary to ensure ecological interests are protected (20 and 21). Whilst the appellant had suggested that the necessary Biodiversity Net Gain Plan should be submitted for approval prior to the commencement of development, I agree with the Council that it should be timed prior to submission of the first Reserved Matters so that appropriate consideration is given to securing biodiversity net gain early in the planning process (22). Whilst the level of biodiversity net gain proposed is not mandatory for the scheme, the delivery of the gain would be consistent with Policy NE2 of the District Plan.

#### *Lighting*

96. It is necessary to control any external artificial lighting at the commercial floorspace and at the residential dwellings in order to protect the living conditions of the occupants of nearby properties (31 and 32).

#### *Fire Safety*

97. To ensure resident and visitor safety against fire, the installation of fire hydrants is necessary (26).

#### *Waste Storage*

98. In the interests of protecting the living conditions of residents and a condition is necessary to secure adequate areas of storage for waste and recycling (46).

#### *Utilities and Media Infrastructure*

99. A condition requiring the submission and implementation of the utilities and media infrastructure to serve the Class E buildings commercial floorspace is necessary to ensure delivery and good design (7).

#### *Energy Efficiency and Water Efficiency*

100. To adapt to climate change, reduce carbon emissions and efficiently use water resources it will be necessary for the development to demonstrate how the design, materials and operation of the scheme will minimise overheating in summer and reduce the need for heating in winter (23).

101. Policy WAT4 and DES4 of the District Plan require water efficiency to respond to the fact that East Hertfordshire is within one of the most water stressed areas in the East of England. A condition requiring mains water consumption to meet a target of 110 litres or less per person per day is necessary to protect water resources in this water stressed area (45).

#### *Highways*

102. To ensure the suitable, safe and satisfactory delivery of transport measures within the development it is necessary to require details of all hard surfaced areas within the site, visibility at footways and carriageway accesses and junctions and the ability for service and emergency vehicles to access and travel around the site (8).

103. To ensure highway safety and avoid extraneous material or surface water on the highway, a condition is necessary to require compliance with the details/ specifications on the approved plan (7498-GA-0 Rev H) and that arrangements are made for surface water to be intercepted and disposed of avoiding discharge from or onto the highway (38). Also to ensure highway safety and improve access and accessibility a Traffic Regulation Order (TRO) enforcing a 20mph speed limits on Luynes Rise and Aspenden Road is necessary. Should the TRO not be approved alternative means to manage speed limits along the identified roads will be required (43).
104. To promote and facilitate the ability of people to make transport choices, plans are necessary to demonstrate how an active travel corridor between the site and London Road will be provided and how active travel design principles will be included and implemented within the scheme (11). The submission and implementation of a bus stop provision and a bus gate facility, cycle storage (8), scheme for cycle parking (37), a Residential Travel Plan (39) and a Workplace Travel Plan Statement (40) are all necessary along with the provision of Electric Vehicle (EV) charging points and their energy sources and a strategy/ management plan for their maintenance will also be required (41). 50% of the total car parking spaces serving the commercial development should be served by passive EV and 20% of the total spaces make provision for active EV charging (42).

*K Ford*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. Application for approval in respect of all matters reserved in this permission shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. (b) The development to which this permission relates shall be begun by not later than the expiration of a period of 2 years commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.
2. Details of the (i) means of access within the site, (ii) appearance, (iii) layout, (iv) scale and (v) landscaping defined by the Town and Country Planning (General Development Procedure) Order 1995 (as amended) (hereinafter called "the Reserved Matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences. The development shall be carried out in accordance with the Reserved Matters as approved, unless otherwise agreed in writing by the Local Planning Authority.
3. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Application site boundary: 10537-FPCR-XX-XX-DR-A-1001 Rev. P02  
Development Framework: 10537-FPCR-XX-XX-DR-A-1002 REV P07  
Land Use parameter plan 1: 10537-FPCR-XX-XX-DR-A-1003 Rev. P05  
Access & Movement parameter plan 2: 10537-FPCR-XX-XX-DR-A-1004 Rev. P07  
Green Infrastructure parameter plan 3: 10537-FPCR-XX-XX-DR-A-1005 REV P05  
Density & Building Heights parameter plan 4: 10537-FPCR-XX-XX-DR-A-1006 Rev. P05  
Public Open Space: 10537-FPCR-XX-XX-DR-A-1007 REV P03  
Access to A10 and Luyne Rise Drawing 7498-GA-02 REV H
- 3a. The land use content of the development hereby approved shall comprise not more than 350 dwellings, a building or buildings with a commercial and services floorspace (Use Class E and B8) of not more than 4,400 sqm and a building or buildings with retail floorspace (Use Class E) of no more than 500 sqm.
4. Before the submission of any Reserved Matters, a Masterplan shall have been submitted to and approved in writing by the local planning authority. The Masterplan shall demonstrate how the development would achieve good place-making principles, and comprehensively apply the principles established in the parameter plans hereby approved. The reserved matters submissions shall thereafter be in accordance with the approved Masterplan.
5. Before the submission of any reserved matters a Design Principles document shall have been submitted to and approved in writing by the local planning authority. The Design Principles document shall provide more details as to the vision and concepts of the development across the site, as set out in the submitted Design and Access Statement, and shall address issues including enhancement of the public realm, use of external materials, approach to parking provision, community safety, recycling and servicing and external lighting. The reserved matters submissions shall thereafter be in accordance with the approved Design Principles document.

6. Prior to or in conjunction with any reserved matters submission, a detailed design shall be submitted to and approved in writing by the Local Planning Authority for any proposed watercourse alteration. Details submitted for any proposed watercourse alteration must demonstrate there is adequate space for each watercourse to be naturalised and enhanced, how it is to be naturalised and enhanced, that flood risk is suitably managed for all storms up to and include the 1 in 100 (1%) AEP Annual Exceedance Probability plus climate change, that the proposed works do not increase flood risk to the surrounding area, that exceedance events of the channels do not impact the proposed development and that they are easily maintainable and accessible. The details shall include long sections and, cross sections of the proposed watercourses including details of any proposed crossings. The development shall then be constructed in accordance with the approved plans.
7. At the same time as the submission of the reserved matters application for development of the up to 4,400 sqm of commercial and services floorspace (Use Class E and B8), and up to 500 sqm of retail floorspace (Use Classes E) ("Commercial Floorspace"), a scheme for the proposed provision of utilities and media infrastructure to serve the Class E buildings Commercial Floorspace shall be submitted to the local planning authority for its approval. The scheme shall include details of how the service infrastructure provision will be connected to the proposed buildings and the programme of provision. The approved scheme shall be implemented in full in accordance with the approved timetable and shall thereafter be maintained in accordance with the approved details.
8. The detailed plans submitted in connection with approval of the Reserved Matters shall show to the satisfaction of the Local Planning Authority:
  - The details of all hard surfaced areas within the site. This includes, but is not limited to, all roads, footways, forecourts, driveways, parking and turning areas.
  - The level of footway and carriageway visibility from each individual vehicle access, and the level of visibility from and around each main junction within the site, within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.
  - That service vehicles, including refuse and emergency vehicles, can safely and conveniently access and route through the site, to include the provision of sufficient turning and operating areas.
  - The provision of sufficient facilities for cycle storage.
  - Bus stop provisions/designs within the site.
  - Bus gate facility including its design, mechanism for opening and shutting and on-going maintenance.All these features shall be provided before first occupation and maintained in perpetuity.
9. Prior to or in conjunction with the submission of each reserved matters application, in accordance with the submitted Outline Drainage Strategy Addendum (10537-WSP-SW-XX-RP-C-005 dated May 2024), detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:
  - i. Surface water runoff rates will be attenuated to 1.52 l/s/ha of hardstanding, as stated within section 2.4 of the Drainage Strategy.



- ii. Provision of surface water source control features and attenuation storage, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 3.33% AEP (1 in 30 year) and 1% AEP (1 in 100) rainfall events (both including allowances for climate change). An allowance of 10% urban creep shall be incorporated with the attenuation volumes for each phase.
  - iii. Detailed designs, modelling calculations and plans of the of the drainage conveyance network in the:
    - 3.33% AEP (1 in 30 year) critical rainfall event plus climate change to show no flooding outside the drainage features on any part of the site.
    - 1% AEP (1 in 100 year) critical rainfall and the 1% AEP (1 in 100 year) critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any flooding outside the drainage features, ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development. It will also show that no runoff during these events will leave the site uncontrolled (including a 24hr pump failure) and remains safe.
  - iv. Finished ground floor levels of properties are a minimum of 300mm above expected flood levels of all sources of flooding (including the ordinary watercourses, SuDS features and within any proposed drainage scheme) or 150mm above ground level, whichever is the more precautionary.
  - v. Details of how all surface water management features to be designed in accordance with The SuDS Manual (CIRIA C753, 2015), including appropriate treatment stages for water quality prior to discharge.
10. The development hereby permitted shall be carried out in accordance with a Phasing Plan which shall be submitted to and approved in writing before development commences on site. The Phasing Plan shall include details and a timetable for when the access road serving the proposed bus route, the employment floorspace and the local centre will be provided on the site. The provision of the access road, employment floorspace and the local centre shall be in full in accordance with the approved Phasing Plan and timetable.
  11. Before any works above slab level take place on site, additional plans and details of improvement works to the existing highway on and off the site shall be submitted to and approved in writing by the local planning authority. The submitted plans and details shall include details to show how an active travel corridor between the site and London Road will be provided, and how active design principles have been included into the works, which shall be broadly in accordance with the submitted WSP Technical Note 1 ("Offsite Active Travel Route") dated 14 December 2023. The approved highway improvement works and the approved provision of the active travel corridor shall be implemented in full before the occupation of the first dwelling on the site and shall be retained as such thereafter.
  12. No development shall commence until an Open Space Strategy has been submitted to and approved in writing by the local planning authority. The Open Space Strategy shall be in accordance with the Masterplan approved under condition 4 and shall:
    - Demonstrate the quantum of open space to be provided on site as set out in the Public Open Space Drawing 10537-FPCR-XX-XX-DR-A-1007 Rev. P03
    - Identify the approximate location of the main areas of formal and informal open space to be provided within the development and set out a proposed programme for its delivery linked to the development phases;

- Outline the local play space and the distribution of play areas within the development and set out a proposed sequence for its delivery linked to the development phases;
- Set out (i) a proposed programme for delivery of the area of allotments linked to the development phases and (ii) proposals for future management of the allotment area.

Development and delivery of open spaces shall be carried out in accordance with the approved Open Space Strategy.

13. No development shall take place within the proposed development site until the applicant, or their agents, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to the planning authority and approved in writing. This condition will only be considered to be discharged when the planning authority has received and approved an archaeological report of all the required archaeological works, and if appropriate, a commitment to publication has been made.
14. The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
  1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment.
  2. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
  3. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
  4. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development/the development being brought into use. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
15. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

16. Prior to the commencement of the development, no works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried until the following has been submitted to and approved in writing by the Local Planning Authority:
  - i) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth.
  - ii) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination.
  - iii) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.
17. Development shall not commence until details and a method statement for any interim and temporary drainage measures during the site clearance and construction phases have been submitted to and approved in writing by the Local Planning Authority. This information shall provide full details of who will be responsible for maintaining such temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Where temporary discharges to a sewer are proposed, written confirmation from the sewer owner that these have been accepted shall be provided. The site works and construction phase shall thereafter be carried out in accordance with approved method statement unless alternative measures have been subsequently approved by the Local Planning Authority.
18. Prior to the commencement of development, details of a Surface Water Drainage Scheme based on both the WSP Flood Risk Assessment and Outline Drainage Strategy 10537-WSP-SW-XX-RP-C-0002 dated July 2023 and the WSP Outline Drainage Strategy Addendum (10537-WSP-SW-XX-RP-C-005 dated May 2024), should be provided that prevents contamination of any public water supply abstractions present. This shall be submitted to and approved in writing by the Local Planning Authority.
19. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The provision of the drainage systems shall be carried out in accordance with the approved details and retained as such thereafter.
20. No development shall commence until an Ecological Impact Assessment shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details and retained as such.
21. No development shall commence until a full Landscape Ecological Management Plan and a Construction Ecological Management Plan shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

22. Before or at the same time as the submission of the first Reserved Matters application, a Biodiversity Net Gain Plan for the whole site, which shall include a timetable for its implementation, shall be submitted to the Local Planning Authority for its approval. This Plan shall describe how the predicted net gain for habitats and hedgerows respectively will be delivered on the site and maintained for a minimum period of 30 years. Once approved, the Plan shall be implemented in full.
23. The development hereby approved shall not progress beyond foundation level until, details of the design and construction of the development demonstrating how the design, materials and operation of the development minimises overheating in summer and reduces the need for heating in the winter to reduce energy demand and reduces water demand, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
24. Prior to any above ground construction works being commenced, details of the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development shall be implemented in accordance with the approved details.
25. Prior to the commencement of the development, a noise impact assessment shall be submitted to and approved by the Local Planning Authority which demonstrates that the potential adverse impacts resulting from external noise emitted from all fixed plant and equipment at the development hereby approved shall be mitigated and reduced to a minimum. The measurements, calculations and assessment shall be made according to BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound' at 1 metre from the façade of the nearest and / or most affected noise sensitive premises, with all plant / equipment operating together at maximum capacity, inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics and taking context into consideration.
26. No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of fire hydrants at the development. No part of the development shall be occupied until the fire hydrants have been installed as approved. Thereafter the fire hydrants shall be retained in their approved form.
27. No development shall commence until a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan: The Construction Traffic Management Plan shall include details of:
  - the phasing of construction and proposed construction programme.
  - the methods for accessing the site, including wider construction vehicle routing.
  - the numbers of daily construction vehicles including details of their sizes, at each phase of the development.
  - the hours of operation and construction vehicle movements.
  - details of any highway works necessary to enable construction to take place.
  - details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.

- details of any hoardings.
  - details of how the safety of existing public highway users and existing public right of way users will be maintained.
  - management of traffic to reduce congestion.
  - control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels.
  - the provision for addressing any abnormal wear and tear to the highway.
  - the details of consultation with local businesses or neighbours.
  - the details of any other Construction Sites in the local area.
  - waste management proposals.
28. Before the commencement of the development hereby permitted, a Site Waste Management Plan (SWMP) for the approved development shall be submitted to and approved in writing by the Local Planning Authority. The SWMP should aim to reduce the amount of waste produced on site and should contain information including estimated types and County of opportunity quantities of waste to arise from construction and waste management actions for each waste type during construction and operation of the development hereby permitted. The development shall be carried out in accordance with the approved SWMP for the duration of the development hereby permitted.
29. In connection with all site preparation, demolition, construction, conversion and ancillary activities, working hours shall be restricted to 08:00 – 18:00 hours on Monday to Friday, 08:00 – 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.
30. Best Practicable Means (BPM) shall be used in controlling dust emissions during all site preparation, demolition, construction and ancillary activities. In times of exceptionally dry weather, additional measures should be put in place to mitigate against the spread of dust.
31. Any external artificial lighting at the Commercial Floorspace part of the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'. Lighting should be minimised and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.
32. Any external artificial lighting to the residential dwellings part of the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 9/19 'Domestic exterior lighting: getting it right!'. Lighting should be minimised, and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.
33. Prior to the first use of each phase of development of the site, a detailed verification report, (appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the approved surface water drainage scheme) has been submitted to and approved in writing by the Local Planning Authority. The verification report shall include photographs of excavations and soil profiles/horizons, any installation

of any surface water structure and control mechanism and shall be undertaken by an independent surveyor. The verification report shall demonstrate that the surface water drainage system has been constructed in accordance with the approved details. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be submitted to and approved in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

34. The development shall not be occupied until confirmation has been provided that either:-
  1. All foul water network upgrades (including all sewage works upgrades) required to accommodate the additional flows from the development have been completed; or-
  2. A development and infrastructure phasing plan has been agreed with the Local Authority to allow development to be occupied. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.
35. Prior to the first occupation of the development hereby permitted the mitigation measures identified within the WSP Air Quality Assessment dated July 2023 shall be implemented in full and shall be retained in accordance with those details thereafter.
36. No development shall commence on site until an updated odour modelling assessment has been submitted to and approved in writing by the local planning authority. Should the assessment identify a need for mitigation of odour impacts, an odour mitigation measures strategy shall be submitted with this assessment. The approved assessment including any mitigation identified shall be implemented in full and retained as such thereafter.
37. Prior to the first commencement of the development hereby permitted, a scheme for the parking of cycles including details of the design, level and siting shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied (or brought into use) and thereafter retained for this purpose.
38. Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number (7498-GA-0 Rev H) in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority. Prior to first use of the development, appropriate arrangements shall be made for surface water from the proposed development to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
39. At least 3 months prior to the first occupation of the approved development a detailed Residential Travel Plan for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented in accordance with the timetable and target contained therein and shall continue to be implemented as long as any part of the development is

occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review.

40. At least 3 months prior to the first occupation of the approved Commercial Floorspace part of the development a detailed Workplace Travel Plan for the Commercial Floorspace shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan Statement shall be implemented in accordance with the timetable and target contained in therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review.
41. The occupation of the development authorised by this permission shall not begin until the details of the siting, type and specification of Electric vehicle charging points (EVCPs) (with one EVCP provided per dwelling unless otherwise agreed), the energy sources and the strategy/management plan for supply and maintenance of the EVCPs have been submitted to and approved in writing by the Local Planning Authority for that phase. All EVCPs shall be installed in accordance with the approved details and permanently maintained and retained. No dwelling shall be occupied until the EVCP serving that dwelling has been installed.
42. Once approved, the car parking spaces to serve the commercial development hereby permitted shall make provision for 50% of the total number of spaces as passive EV charging and 20% of the total number of spaces as active EV charging.
43. Prior to the first occupation of the development hereby permitted a Traffic Regulation Orders (TROs) to enforce a 20mph speed limits on Luyne Rise and Aspenden Road that are required as part of improving access and accessibility to the site must be secured in place and implemented. Should the TROs not be approved under the provisions of the Highways Act, alternative means to manage and/or mitigate speed limits along Luyne Rise and Aspenden Road and a timetable for their provision shall be submitted to the local planning authority for its approval and implemented in full in accordance with the approved timetable.
44. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals including roads, pavements, parking areas, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
45. Prior to the first occupation, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day is provided.
46. Prior to the occupation of the development hereby approved, full details of waste and recycling storage shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details which shall be retained as such thereafter.
47. No dwelling shall be occupied until details of the acoustic bund and fence have been submitted to and approved in writing by the local planning authority. The

approved details shall be implemented in full prior to the first occupation of the first dwelling and retained as such thereafter.

48. Prior to occupation of the development, an acoustic design scheme including insulation and mitigation proposals recommended within RPS Report ref. JAJ03857-REPT-01-R2 shall be submitted to and approved in writing by the Local Planning Authority as necessary to achieve the 'good' internal room and external space amenity noise standards in accordance with the criteria of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. This scheme shall include recommendations made in the aforementioned report for good acoustic design and take into account the ventilation strategy of the development. Approved details shall be implemented prior to first occupation of the development and thereafter be permanently retained.

The noise levels in habitable rooms (living rooms and bedrooms) and the external amenity areas at the development hereby approved shall meet the amenity standards in accordance with the criteria of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' for internal rooms and external amenity areas. Construction methods and materials to achieve this shall be implemented prior to use of the development and thereafter be permanently retained.

49. Prior to occupation of the development, a post-completion noise assessment shall be carried out on a representative sample of dwellings prior agreed with the Local Planning Authority and shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the building envelope achieves an adequate level of protection in order to achieve the 'good' internal room and external space amenity noise standards in accordance with the criteria of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'. These levels must also be met whilst taking any building services/ equipment into account.
50. The noise rating level of air source heat pumps shall not exceed 35dBA at any neighbouring habitable room window when operating at maximum capacity and inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics. Should it not be possible to demonstrate that no tonality is present, a 6dB tonality penalty shall be applied to the specific noise level.
51. Prior to the first occupation of the site, a detailed maintenance and management plan for the entire surface water drainage system and any existing watercourses shall be submitted to and approved in writing by the Local Planning Authority. The maintenance and management plan shall cover the following:
- a. Who will be responsible for managing all aspects of the surface water drainage system, including piped drains.
  - b. Incorporate the as-built layouts and designs of all features and components including locations.
  - c. What the maintenance and inspection requirements are of all aspects of the surface water system and ordinary watercourses and how these are to be carried out.
  - d. Evidence of how these responsibility arrangements will remain in place throughout the lifetime of the development.
- The agreed maintenance and management plan shall thereafter remain in place for the lifetime of the development.



52. Prior to any of the Commercial Floorspace being used as a gymnasium, details shall be submitted to and approved in writing by the Local Planning Authority of the sound insulation of the doors, windows, walls and roof structure. Details shall demonstrate that the sound insulation value  $D_{nT,w}$  is enhanced by at least 20dB above the Building Regulations value and, where necessary, additional mitigation measures are implemented to ensure that airborne and structure borne noise and vibration from gym activities including the use of gym equipment, weight machines / free weights and amplified music / television or gym instructor voices are not audible at noise sensitive premises. Approved details shall be implemented prior to first use of the development and thereafter be permanently retained.
53. Prior to any of the Commercial Floorspace being used as a gymnasium, a Noise & Vibration Management Plan shall be submitted to and approved by the Local Planning Authority. The Noise & Vibration Management Plan shall include but is not limited to:
  - Measures for the effective isolation of exercise equipment, loudspeakers and plant with regards to vibration.
  - Details of self-closing devices to all external doors and any further measures to ensure that no external doors or windows are fixed in an open position while gym activities are in progress. The Noise & Vibration Management Plan shall be fully implemented as approved prior to first use and any approved details shall thereafter be permanently retained.
54. All waste materials and rubbish associated with site preparation, demolition or construction shall be contained on site in appropriate containers which, when full, should be promptly removed to a licensed disposal site.
55. Prior to the occupation of the 262<sup>nd</sup> dwelling (or 75% of the total number of dwellings whichever is the sooner), the buildings proposed to accommodate at least 4,000 sq m of commercial and services floorspace (Use Class E and B8) and at least 400 sq m of retail floorspace (Use Class E) shall be erected in their approved location with only internal works remaining to these buildings to enable them to be occupied.
56. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
57. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes (AA) and (AB) of Part 20 of Schedule 2 to the Order shall be undertaken.
58. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (As Amended), or any amending Order, no works or development as described in Class E (a), (b) and (c) of the Order shall not be undertaken without prior written permission of the Local Authority.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Josef Cannon	Of King's Counsel instructed by East Hertfordshire District Council
He called:	
Bobby Browne	Wynne Williams Associates
Jonathan Lee	Opinion Research Services
Vic Hector	VLM Associates
Neil Button	East Hertfordshire District Council
**Charlie Thompson	Hertfordshire County Council
*Hannah Regis	Hertfordshire County Council

### FOR THE APPELLANT:

Zack Simons	of Counsel
Rebecca Sage	of Counsel, both instructed by Hannah Albans of DLP Planning Ltd
They called:	
Roland G Bolton	Senior Director of DLP Planning Ltd and Head of the Strategic Planning Research Unit
Jon Etchells	Director of Jon Etchells Consulting Ltd
Andy Williams	Founding Director of Define
Mehmet Ahmet	Technical Director at WSP
Hannah Albans	Director at DLP Planning Ltd
*Heather Katherine Knowler	Educational Facilities Management Partnership Ltd

INTERESTED PARTIES:

Chris Berry

Planning Manager CPRE

Cllr Graham Bonner

Buntingford Town Council

Cllr Sue Nicholls

East Hertfordshire District Council Ward  
Member

\* Present at Education Round Table Session

\*\* Present at Education Round Table Session and Planning Obligations Round Table  
Session

## **DOCUMENTS SUBMITTED DURING INQUIRY**

INQ1 Council Opening

INQ2 Appellant Opening

INQ3 Updated version of CD14.3 Housing Statement of Common Ground V2

INQ4 Updated Statement by Cllr Nicholls

INQ5 Missing map from CD15.2

INQ6 Letter to Inspector from Mr C Hinchliff MP

INQ7 Appeal Decision app/v2255/w/23/3333811

INQ8 Revised Appearance List for Council

INQ9 Comparison Schedule of Draft Planning Conditions 16.7.24

INQ10 Draft Education Round Table Agenda 24.7.24

INQ11 386 Bus Timetable from 8 January 2024

INQ12 831 Bus Timetable from 4 September 2023

INQ13 18 and 331 Bus Timetable from 2 June 2024

INQ14 Possible Changes to the 18 and 831 Bus Timetable

INQ15 CD14.3 Housing Supply Statement of Common Ground V7

INQ16 Comparison Schedule of Draft Planning Conditions 23.7.24

INQ17 Summary of Obligations Contained in the Draft Section 106 Agreements as at 23 July 2024

INQ18 Updated Calculation Summary Data Education Matters

INQ19 Schedule of Draft Planning Conditions 29.7.24

INQ20 Comparison Schedule of Draft Planning Conditions Following Round Table

INQ21 CIL Compliance Statement East Hertfordshire District Council

INQ22 Council Closing Submissions

INQ23 Council Closing Submissions Appendix: The Bolton Rules

INQ24 Appellant Closing Submission

INQ25 Secretary of State for Communities and Local Government v West Berkshire District Council [2016] 1 W.L.R. 3923

INQ26 Gallagher Homes Ltd v Solihull MBC [2014] EWCA Civ 1610

INQ27 Letter from Hertfordshire County Council 6 August 2024

INQ28 Summary of Obligations Contained in the Section 106 Agreement 8 August 2024

INQ29 Certified copy of S106 Agreement (with District Council) dated 13 August 2024

INQ30 Certified copy of S106 Agreement (with County Council) dated 15 August 2024



## Appeal Decisions

Site visit made on 12 July 2024

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: **1<sup>st</sup> August 2024**

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### **Appeal A Ref: APP/J1915/W/24/3336216**

#### **Elm Cottage, Gravesend, Albury, Hertfordshire SG11 2LW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Heather Brooks against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/1786/HH.
  - The development proposed is described as a single storey side extension being added to the south end of Elm Cottage to create a fourth ground floor bedroom and en-suite to accommodate a growing family.
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### **Appeal B Ref: APP/J1915/Y/24/3336213**

#### **Elm Cottage, Gravesend, Albury, Hertfordshire SG11 2LW**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Ms Heather Brooks against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/1787/LBC.
  - The works proposed are described as a single storey side extension being added to the south end of Elm Cottage to create a fourth ground floor bedroom and en-suite to accommodate a growing family.
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## Decision

### **Appeal A Ref: APP/J1915/W/24/3336216**

1. The appeal is dismissed.

### **Appeal B Ref: APP/J1915/Y/24/3336213**

2. The appeal is dismissed.

## Procedural Matters

3. For clarity both Appeal A and Appeal B refer to the same proposed scheme. Therefore, in this decision I have referred to them jointly unless specified otherwise.

## Main Issues

4. The main issues are whether the proposal would preserve a Grade II listed building known as "Elm Cottage" (Ref: 1347712) (the LB) and any of the features of special architectural or historic interest that it possesses, and the

extent to which it would preserve or enhance the character or appearance of the Patmore Heath Conservation Area (the CA).

## Reasons

5. As the proposal relates to a listed building and is in a conservation area, I have had special regard to sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act).
6. The LB is a timber-framed, thatched building which is considered to have been originally constructed in the late 17<sup>th</sup> – early 18<sup>th</sup> century. Its significance is based on it being a good example of a rural vernacular house, but it is noted it has been extended at both ends and to the rear. Nevertheless, the original timber framing and central chimney stack are clearly visible internally and the side extensions have been built sympathetically to the original core. The rear extension is, however, obviously modern in form.
7. The CA is characterised by the broadly triangular heath at its heart and the collection of rural dwellings which surround it. It was later extended to incorporate part of the lane that links the heath and Gravesend. This was because it was considered a good example of a sunken lane. The lane has a verdant appearance which is instructed by the overhanging trees and mature hedgerows, and in combination with the traditional properties along it, including the LB, emphasises its character. A key view through the CA is along the sunken lane from the southern corner of the appeal site towards the Catherine Wheel public house and the narrow approach towards the heath.
8. The proposal would further extend the LB to the southern end. It would follow the traditional rectilinear form of the cottage. However, the proposal would overstep the rear elevation of the LB and require a complicated roof form to ensure the upper floor windows in the existing side elevation are not obscured. This would add complexity and create an awkward relationship between the existing and proposed. In combination with the existing additions to the LB, the proposal would therefore fail to preserve the simple form and vernacular appearance of the LB.
9. It is acknowledged a similar roof form was accepted on the rear extension. However, this simply shows the awkwardness of the form and replication of this does not automatically mean it is appropriate.
10. The proposed use of plain tiles and weatherboarding would delineate the extension from the main house. This differentiation in materials between a main house and extension is not uncommon and can create a subservient relationship with the host dwelling should that proposed be of a suitable size and form. It is also noted that the proposal would only require the removal of fabric related to a later extension. In both instances, these elements would have a neutral impact on the LBs significance.
11. The Council has raised concerns in relation to the proposed fenestration in the extension. Nevertheless, this would also be considered to have a neutral impact as they would not be so dissimilar to the existing mix on the LB and would be clearly within that of the proposed extension.
12. The CA was expanded to include the LB because of how it instructs the historic linkage between the heath and Gravesend, in effect its character. Therefore, as the proposal would harm the significance of the LB it cannot be considered to

preserve or enhance the character of the CA. Nevertheless, the combination of the proposed single storey height of the extension, the boundary hedging and the sunken nature of the lane ensure the proposal would not be visually obvious when travelling through the CA or within the key views along the lane. As such the proposal is unlikely to harm the appearance of the CA.

13. For the reasons given above I have found the proposal would harm the significance of the LB and fail to preserve the character of the CA. This would therefore constitute less than substantial harm, nevertheless this would be at the lower end.
14. As I have identified less than substantial harm to the heritage assets, paragraph 208 of the National Planning Policy Framework (the Framework) advises that it is weighed against the public benefits of the scheme.
15. The appellant does not consider the proposal harmful so has not referenced any benefits of the scheme, beyond the private need for additional accommodation. The appeal site is also already within residential use and so the optimal viable use of the LB is secured and is not dependent on the proposal being approved.
16. As there are no public benefits which would outweigh the less than substantial harm identified. The proposal would therefore fail to satisfy the requirements of the Act and the Framework. It would also conflict with East Hertfordshire District Plan Policies DES4, HOU11, GBR2 and HA4 insofar as they require the design of new extensions or alterations to be appropriate in relation to the character and appearance of the host building and relevant historic assets.

### **Other Matters**

17. A lack of harm in relation to the living conditions of neighbouring residents, on-site parking, ecology, and archaeology is noted. However, a lack of harm is a neutral factor and so does not weigh for or against the proposal.
18. It is also noted that the proposal was developed from a previously refused scheme. Nonetheless, this does not alter my findings on the main issues.

### **Conclusion**

19. For the reasons given above the proposal would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. Appeal A and Appeal B are, therefore, dismissed.

*R J Redford*

INSPECTOR





## Appeal Decision

Site visit made on 16 July 2024

**by J D Westbrook BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 August 2024**

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**Appeal Ref: APP/J1915/D/24/3338448**

**48 Chapel Lane, Letty Green, Hertfordshire, SG14 2PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mrs Michelle White against the decision of East Hertfordshire District Council.
  - The application Ref is 3/23/2074/HH.
  - The development proposed is described as the erection of a two-storey rear extension.
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### Decision

1. The appeal is dismissed.

### Main issues

2. The main issues in this case are:
  - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework December 2023 (NPPF) and any relevant development plan policies.
  - The effect of the proposal on the openness of the Green Belt.
  - If inappropriate, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

### Reasons

3. No 48 is a detached house situated on the south side of Chapel Lane. It is part of a row of detached houses of varying design along this part of the road and, in common with neighbouring properties, is set well back from the road. It would appear that the properties in the vicinity of No 48 have long rear gardens that back onto an area of open land between the houses and a large commercial horticultural premises to the south. To the north and further to the east of Chapel Lane is open countryside. The proposed development would involve the construction of a two-storey extension across part of the rear elevation of the house, and the insertion of new windows and doors.

### *Whether inappropriate?*

4. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt with certain exceptions, including

the extension of a building provided that it does not result in disproportionate additions over and above the size of the original building. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

5. Policy GBR1 of the Council's District Plan 2018 states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (NPPF). In the explanation relating to planning applications in the Green Belt, it reiterates that inappropriate development in the Green Belt should not be approved except in 'very special circumstances', and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this respect the development plan policy is consistent with the policy set out in the NPPF.
6. The appellant has referred to other examples of development granted permission in the Green Belt close to the appeal site, where large increases in size have been involved. However, it would appear that these examples are not of similar circumstances to that of the current proposal, in terms of either type of development, position in relation to the host building, or degree of change with regard to the scale of the actual development proposed, and I have, in any case, considered this case on its own merits.
7. In this case, the proposed development is an extension and as such, is to be considered against potential exception (c) under paragraph 154 of the NPPF. From the information before me, it would appear that the original dwelling has been extended a number of times in the past, and that the existing dwelling plus the proposed extension would have a floorspace some 97% larger than the original. Whilst, in itself, the proposed extension would not be a large addition, when considered cumulatively with previous additions I find that it would represent a disproportionate addition over and above the size of the original building. It would, therefore, be inappropriate development in the Green Belt.

#### *Openness*

8. The proposed extension would partly infill a space at the rear of the house, but would then extend beyond the rear building line by a small amount into the rear garden. It would, therefore, have some impact on the openness of the Green Belt, though the degree of harm would be minimal.

#### *Other considerations*

9. The appellant has referred to a Certificate of Lawful Development (CLD) that was issued in 2013 relating to a two-storey rear extension at No 48 which appears to be of a slightly smaller scale and a different design to that of the current proposal. From the information before me, it is unclear as to whether changes to the General Permitted Development Order since 2013 could potentially invalidate the CLD. It is questionable, therefore, whether it could constitute a realistic 'fall-back' position.
10. Even if the CLD were to be considered a fall-back position, the time that has elapsed since the CLD was issued, during which time the development has not been implemented, leads me to consider that there is only a small degree of probability that it would be carried out.

11. Finally, I note that the CLD scheme is smaller than that of the current proposal. In addition, it would cause less harm than the current scheme in that would retain the characteristic pitched roof design of the main body of the dwelling, whereas the current scheme would introduce a flat-roofed element that would be somewhat incongruous in the context of the design of the rest of the house.
12. In conclusion on the CLD issue, from the evidence before me, I find that there is some doubt as to the validity of the CLD. Even if the CLD scheme were to be considered a fall-back position, the time delay in implementing it indicates only a limited probability of it being built. In any case, the current proposed scheme would be larger and of a somewhat uncharacteristic design. For all of these reasons I give the existence of the CLD scheme only limited weight
13. The appellant notes that planning permission was granted by the Council in 2014 for an almost identical development to that of the current proposal. The 2014 permission has, however, now lapsed and, although granted under a similar policy from an earlier development plan, the assessment of that proposal by the Council took place at a time when the CLD would have remained valid. Moreover, it would appear that little detailed consideration was given by the Council at that time to specific quantitative data relating to the scale of the proposal. Given the actual figures available to me, I have found that the 97% increase in floorspace would represent a disproportionate addition over and above the size of the original building. The existence of the much earlier permission does not alter my conclusion on this matter and, once again, I afford it limited weight.

#### *The Planning Balance*

14. I find that the proposal would represent inappropriate development in the Green Belt. In the light of my considerations given in paragraphs 9-12 above, I afford the existence of the CLD scheme only limited weight. Similarly, for reasons given in paragraph 13, the existence of a previous planning permission for a similar proposal in 2014, should be afforded only limited weight. On balance, therefore, I conclude that there are no other considerations which, separately or cumulatively, clearly outweigh the harm to the Green Belt by way both of inappropriateness and impact on openness, which must be afforded substantial weight.

#### **Conclusion**

15. I find that the proposed extension would be inappropriate development in the Green Belt, and the very special circumstances necessary to justify the development would not exist. On this basis, the proposal would conflict with Policy GBR1 of the LP and with national policy in the NPPF. Consequently, I dismiss the appeal.

*J D Westbrook*

INSPECTOR